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FOREWORD

The Indian Institute of Public Administration initiated its case study programme in 1961 when a Committee on Case Studies was set up with Shri S.S. Khera, the then Secretary to the Government of India, Ministry of Steel, Mines & Fuel, as its chairman. The main objects of the programme as outlined by the Committee were: (a) to promote a deeper and wider understanding of the functioning of Indian administration in its environmental and institutional framework; and (b) to build up a body of systematic knowledge about the administrative processes in India; this may be of use in: (i) the teaching of public administration, and (ii) also in indicating improvements in administrative practices and procedures.

In pursuance, the Institute has so far brought out five volumes of case studies and I am happy to introduce this sixth volume. The cases here have all been written by practising administrators based upon their experience. I am grateful to them for devoting their time and energy for the purpose. I am also grateful to Shri B.C. Mathur, the then Case Study Project Director, for his support and encouragement in compiling this volume.

The Committee's chairman, Shri Govind Narain, Governor of Karnataka, has taken a keen personal interest in the working of the Committee and in the preparation of these case studies. I am deeply indebted to him.

I thank Shri P.R. Dubhashi who gives a scholarly introduction to this volume in the next few pages.

Shri N.R. Gopalakrishnan and his team have made it possible for this volume to come out in time, and they deserve my thanks.

NEW DELHI,
January 15, 1979.

R.N. HALDIPUR
Director

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INTRODUCTION

The Indian Institute of Public Administration has played a pioneering role in bringing out a series of case studies which illumine a chunk of administrative reality and provide a valuable source material for training in public administration. They have dealt with different facets of public administrative system of our country.

We are glad to bring out this volume which is yet another significant addition to the output of the administrative case studies of the Institute. The studies included in this volume concentrate on the administration of autonomous or semi-autonomous institutions which nevertheless are very closely connected with governmental administration. The case studies deal with some of the issues arising out of the inter-relationship between the Government agencies and the autonomous institutions.

The case study on the dry dock project at Visakhapatnam by Vijaya Saradhi portrays the convoluted process stretching over a period of nearly two decades from 1947 to 1967, leading to the eventual sanction of the dry dock project by Government. The project was described as almost "a saga of perseverance over repeated vicissitudes." The study makes us reflect whether sanctions to plan projects could not be somewhat quicker so as to minimise cost and maximise benefit to the national economy.

The second case study by V. Srinivasan describes how the Industrial Development Corporation established in Maharashtra raised its resources from Rs. 25 lakhs on its registration to a total sum of own funds of Rs. 5.6 crores in a little less than two years. The study shows that this would not have been possible but for the fact that the managing director of the newly registered corporation was also the deputy secretary in Government and used his position to move the neces-

sary levers in governmental administration to make this possible.

The third case study by Shri M.K. Chaturvedi deals with the creation of the Institute of Technology in the Banaras Hindu University and throws light on the process of decision making in the university as well as in the apparatus of the Government dealing with the university. It shows that but for the personal consultations by the new vice-chancellor of the university at various levels in the Ministry of Education and the University Grants Commission, the Institute would have well turned out into a still-born project.

The fourth case study by Modwel deals with the manner in which a public sector enterprise, namely, the U.P. State Road Transport Corporation dealt with its labour union to reach an agreement on the workers' demands with a view to averting an impending strike. The strike was averted but nevertheless violent consequences followed. When both management and the trade union want to maximise gains and minimise losses what would be the optimum solution? Would the game theory be of any help? These are the questions posed by the author at the end of the case study.

The fifth case study by P.S. Bhatnagar shows how the misuse of governmental machinery by political bosses leads to manipulations and muddle in municipal administration.

The sixth case study by Abhijit Datta and D.D. Malhotra deals with conflict between the elected non-official president of a municipality and the official commissioner appointed by Government. Without a clear-cut delineation of the roles of the two and a sense of mutual trust and confidence, there cannot be smooth administration in a municipal institution. But these conditions rarely obtain with the result that the standard of municipal administration leaves much to be desired.

The seventh case study by D.D. Malhotra deals with the conflict between the woman officer who was an administrator of a municipality and a medical officer of health serving in the same municipality. The conflict arose partly due to personal misunderstanding and partly because of lack of proper channels of communication. The special problems of the women administrators also form part of the story.

The eighth case study by Raj Nandy deals with the attempt to introduce partial mechanisation in a municipal department. The attempt did not succeed and the municipality returned to the old manual method because it was not given a fair trial. The study illustrates the obstacles to innovations in the public administrative system.

The last case study by D.D. Malhotra deals with the attempt to improve the collection of property taxes in a municipality. This is an area of notoriously poor administrative performance and the techniques tried by the Administrator in this case study could be tried elsewhere also. But the Administrator was not there too long because he was transferred to another post. This is how sustained administrative drive slackens.

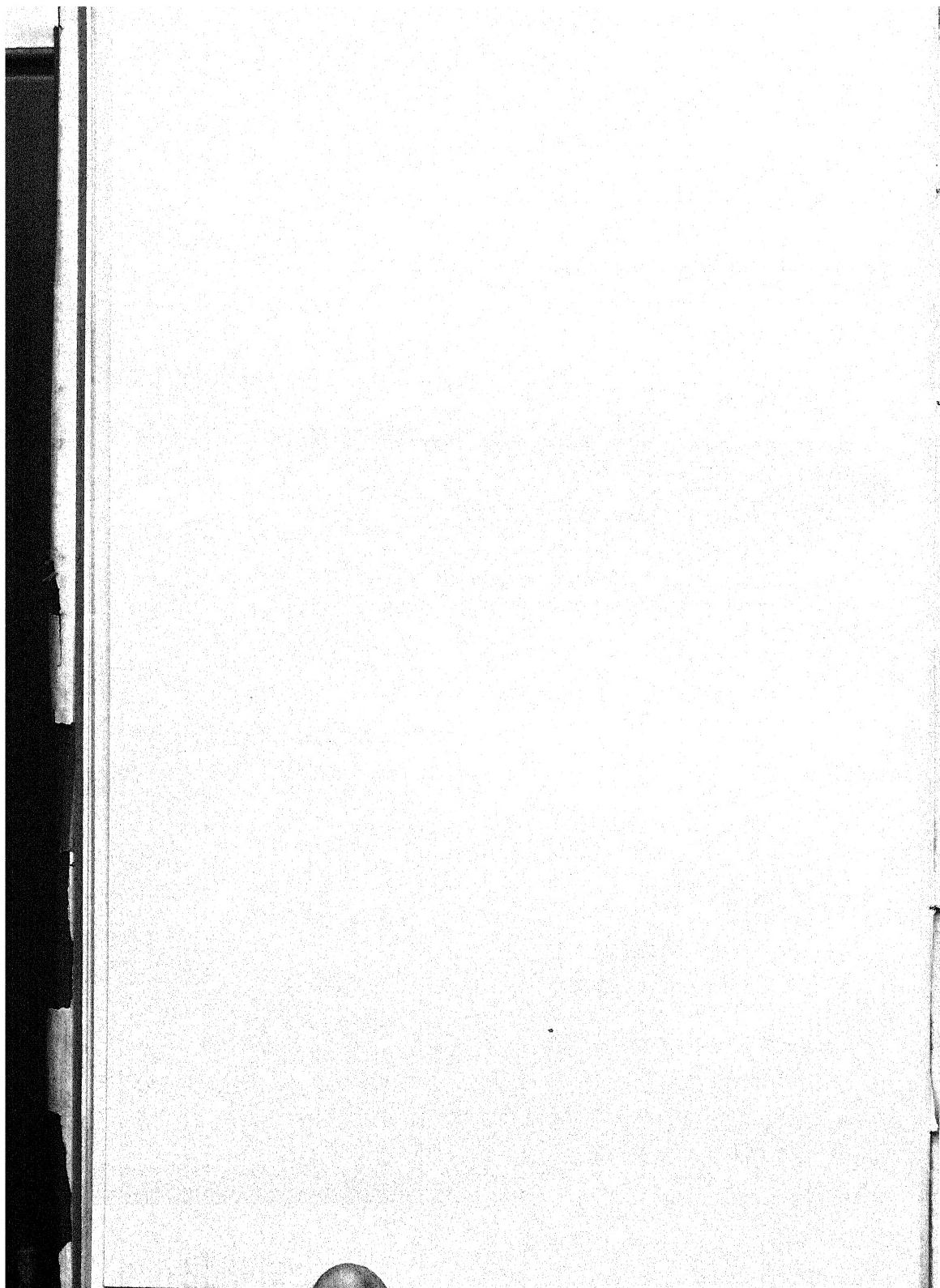
All in all, we hope that this volume of case studies would be found useful by administrators and trainers alike, specially with reference to administration of municipalities, public sector undertakings and autonomous institutions and their dealing with government administration.

NEW DELHI

P.R. DUBHASHI

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The Dry Dock Project at Visakhapatnam*

S.P. Vijaya Saradhi

The earliest reference to the construction of a dry dock at Visakhapatnam was in the Reports of Mr. Ash, Engineer-in-Chief, Visakhapatnam Harbour Construction between 1929 and 1934. But the matter did not receive serious attention till the establishment of the Scindia Shipbuilding Yard at Visakhapatnam in 1941. The World War II intervened shortly thereafter and the matter in spite of its vital necessity especially in times

* Visakhapatnam is located on Lat: 17° 41' N and Long. 83° 17'-35" E on Coromandel coast of India. It has a port which can accommodate 11 ships alongside the berths and 6 ships in the moorings. The principal imports through the port are fertilisers, foodgrains, electrical goods and machineries, jute and jute goods, chemicals, manufactured iron and steel, ship building materials and crude oil.

The principal exports through the port are : ores, building material, cotton and cotton goods, dyeing and tanning substances, pulses, jute goods, manufactured iron and steel, railway materials, seeds, spices and tobaccoe.

The following table gives the traffic which the port handled from 1963-64 to 1965-66 :

Year	Trade		Shipping			
	Import (tonnes lakhs)	Export (tonnes lakhs)	Foreign going vessels		Coastal vessels	
			Tonnage No. (GRT)	Tonnage No. (GRT)	No. lakhs	(GRT)
1963-64	18.49	16.72	472	22.59	206	7.94
1964-65	19.10	19.63	470	23.32	233	8.61
1965-66	18.93	25.65	477	25.04	149	5.81

The Hindustan Shipyard and the Naval Base are located near the port.

of war, had to be dropped as the taking up of new projects was not feasible during the period.

Immediately after the termination of the World War II, a case for the construction of the dry dock was presented by the Bengal Nagpur Railway, the then management of the Visakhapatnam port, to the Port Technical Committee presided over by Sir Godfrey Armstrong. The Committee strongly recommended the construction of the dry dock on the following grounds :

- (1) The dry dock was considered a necessary adjunct to the Visakhapatnam Port in view of the growing possibility of its becoming a terminal port with a large volume of exports of cotton, coal and iron ore envisaged in the future. The construction of the dry dock would take two years.
- (2) A dry dock was an essential need of shipping which should normally be provided by any modern port. As such, it should not be considered purely on grounds of financial feasibility ignoring a vital responsibility of the port to provide such a facility.
- (3) The planning of a dry dock at Visakhapatnam was sound geographically, considering the location, climate, soil conditions and increasing cargo traffic. The existence of a good dry dock might attract foreign ships on voyage in the Bay of Bengal for dry-docking at the port.
- (4) The port would develop without difficulty into a first class port with the provision of docking facilities. Thus, in course of time, it would become an earning port and be in a position to pay interest on capital sunk in it by the government.
- (5) A dry dock besides ensuring repair facilities would be economical mutually to the port and the Shipyard in that the former could utilise the technical staff of the Shipyard for the dry dock latter could utilise the dry dock for the final check-up of its newly constructed ships before delivery.
- (6) The Naval Authorities, Visakhapatnam, might favour the dry dock for their vessels reporting at their base.

The Committee strongly recommended that Visakhapatnam

should be developed as a sheltered deep-sea port on the east coast to accommodate ships at least up to 650 feet in length and with draft up to 30 feet and for this purpose, the improvement at the entrance, the expansion of the quays, the building of a dry dock along with other facilities should be taken up immediately and the finance required for the execution of the whole project should be found by the Government of India.

Early in 1947, Messrs. Rendell Palmer and Tritton, consulting engineers, London, were entrusted with the job of preparing a detailed design for the proposed dry dock. Till late 1949, various tentative sketches were made even to accommodate large vessels up to and including ships of the P & O Strath Class and preliminary borings were carried out to test the soil at the site. But, in November 1949, the Railway Board decided that "in view of the huge cumulative operating loss of Rs. 6.67 lakhs incurred by the port during 1946-49, no further action need be taken in the matter."

By 1951, Bombay Port on the West coast of India had five dry docks—two belonging to the Port Trust, one to the Ministry of Defence and two to private parties—which could accommodate merchant ships of over 400 feet in length while Calcutta Port on the east coast had five such dry docks owned by the Port Commissioners, some of which were frequently in use by the 'Commissioners' own flotilla'. In addition, Cochin on the West coast had a dry dock, 240 feet long, while Visakhapatnam on the east coast had one owned by the Port Authorities which could accommodate vessels, 350 feet long, and Madras Port had only a slip-way for the repair of small craft of 900 DWT. The tonnage of the Indian owned shipping had increased from 1,92,000 GRT (59 ships) in August 1947 to 3,72,378 GRT (94 ships) by April 1951. Moreover, the Government of India had set a fairly high target of 6,00,000 GRT for Indian-owned shipping to be reached by the end of the First Plan period. But, there had been no construction of dry docks in the country for over two decades. It was felt that though, for every 50,000 GRT added to the Indian shipping, one dry dock was necessary as a matter of general policy, at least to dry docks, one on the east coast, at Visakhapatnam and the other on the west coast, would be immediately necessary to meet the growing repair needs to Indian shipping.

In March 1951, launching S.S. JALAPUTRA at Visakhapatnam, the Union Minister for Transport and Shipping gave an undertaking that the question of dry dock would be taken up for examination by the Transport Ministry as part of the development programme of Visakhapatnam port. Soon he referred the matter to the National Harbour Board which had been established by then for advising on the development of ports in the country.

Six months later, the National Harbour Board examined the question in consultation with the Ministries of Railways, Defence, and Works, Production and Supplies. The Ministry of Defence did not consider the provision of a dry dock at Visakhapatnam essential from their point of view but felt it would be a desirable facility which could be used by their vessels if provided. They thought that a dry dock, 560 feet long with a provision for further extention to a total length of 725 feet, would serve their needs. They stated that the question of contributing from their funds for such extension would arise only if suited their special needs. The size of the proposed dry dock evoked considerable discussion between the Ministry of Railways and the Ministry of Defence and finally the following size was agreed upon :

(i)	Length (net inside)	560'-0"
(ii)	Width at keel level	100'-0"
(iii)	Depth below datum to top of keel blocks	26'-0"
(iv)	Depth below datum to floor of dock	31'-0"
(v)	Coping Level	+ 12'-0"

i.e., 12' above datum

Though the most economical width and depth for a 560 feet long dock would be 80 and 20 feet respectively the figures of 100 and 26 feet were adopted in order to suit the dock when extended in length. With the proposed dimensions, it would also be possible to extend the length up to 1100 feet with a central steel caisson. It was proposed to locate the dry dock on the south side of the Scindia Shipbuilding Yard between the road from Visakhapatnam to Madras and the Yerada Hill since this area was clear of the busy port area, close to the shipbuilding yard and also acceptable to the local Naval Authorities.

The National Harbour Board went into the question of the financial feasibility of the project. The following were the estimates of capital cost (Exhibit 1), annual gross revenue, maintenance and operating cost and net revenue (Exhibit 2) for a dry dock of 560' × 100' × 26' dimensions :

- (1) *Capital Cost* : The capital cost of the project was estimated Rs. 94.02 lakhs, Rs. 30.00 lakhs of which was considered to be the cost of plant and equipment. Of the plant and equipment, about Rs. 15 to 20 lakhs worth of equipment would have to be imported. As such, the bulk of the project cost would be rupee-expenditure.
- (2) *Annual Gross Revenue* : It was assumed that the operating days of the dry dock would be 300 in a year of 365 days. Assuming that each ship would take 3 days for dry docking, 100 ships could be dry-docked in a year in view of the visit of about 500 ships annually to the Visakhapatnam port and the proposed production-target of 6 ships a year by the Shipyard. Considering the average size of ship using the dock and the capacity of the traffic to bear the charges, a charge of Rs. 2,500 for the first day and Rs. 1,000 for each subsequent day of docking was proposed keeping also in view the rates in force for docking at Bombay and Calcutta. Thus, envisaging the best utilisation of the dock by quick turn-round of ships, the following was the estimate of annual gross revenue :

	<i>Rs. in lakhs</i>
(i) 100 first days @ Rs. 2,500 a day ...	2.50
(ii) 200 following days @ Rs. 1,000 a day	... 2.00
 Total Revenue	 4.5

- (3) *Annual Operating and Maintenance Costs* : For purposes of computation, these were divided into cost of funds, depreciation on capital assets, maintenance and operating costs.

- (i) *Cost of funds* : It was established that the port would not be in a position to finance the capital

cost out of its internal resources as it had been incurring losses on its working since 1946-47 as shown below :

<i>Year</i>	<i>Annual loss Rs. (lakhs)</i>	<i>Cumulative loss Rs. (lakhs)</i>
1946-47	0.60	0.60
1947-48	0.74	1.34
1948-49	5.33	6.67
1949-50	10.55	17.22
1950-51	2.01	19.23*

Hence, it was presumed that the capital cost of Rs. 94.02 lakhs would be financed by a loan from the Government. An interest rate of 4 per cent per annum instead of the existing 3.25 per cent was assumed for calculations. Thus, the annual interest charged amounted to Rs. 3.76 lakhs.

- (ii) *Depreciation on Capital Assets* : Depreciation on plant and equipment was assumed at 5 per cent per annum while an annual write off of 1/60 of the other capital assets was assumed (estimated life of dock being 60 years). Thus, depreciation provisions were meant to recover the original cost of the capital assets on a straight line basis. The annual depreciation provision amounted to Rs. 2.57 lakhs.
- (iii) *Maintenance and Operating Costs* : These covered repairs and petty replacements, up-keep and running of plant and machinery and structures, besides staff-salaries, electric power and stores, etc. The annual expenditure amounted to Rs. 1.70 lakhs.
- (iv) *Annual Net Revenue* : A comparison of the estimated annual operating costs, etc., with the estimated amount of gross revenue showed an annual operating loss of Rs. 3.53 lakhs. It was contended that

*If the arrear claims of the Port for terminal charges were accepted by the Board, the loss during 1950-51 would be converted into a gain of Rs. 2.45 lakhs.

the revenues from the dry dock would be just enough to meet the dock maintenance including depreciation but not interest on loan. Thus, interest on loans was thought to be an additional burden on the Ministry of Railways as the port was already running into operating deficits on its existing operations. It was also feared that this loss would be much larger if the port did not develop into a terminal port.

The National Harbour Board recommended the construction of the dry dock at Visakhapatnam suggesting that the Government of India might consider sanctioning a block grant to meet its capital cost and a recurring grant to make up its operating deficits. The question of providing finance from railway funds was examined by the Ministry of Railways who finally came to the conclusion that it would not be possible for the Railways to shoulder the burden.

In March 1952, the Scindia Shipbuilding Yard was taken over by the Government of India by forming a private limited company known as the Hindustan Shipyard Limited for the purpose with two-thirds of its share capital held by the government and the remaining one-third by the Scindia Steam Navigation Company Ltd.¹ The Shipyard came under the jurisdiction of the Ministry of Works, Production and Supplies.

The Ministry of Works, Production and Supplies wanted the managing director of the Shipyard to communicate his views on the construction of the proposed dry dock in view of its importance to the Shipyard and the unwillingness of the port authorities to take it up. Examining the importance of the dry dock to the Shipyard and its recurring financial implications, the managing director pointed out that, if the dry dock were not constructed, the Shipyard would have to incur an expenditure of about Rs. 25,000 per ship—exclusive of the fees

¹ By 1949, the Scindia Shipbuilding Yard became an uneconomic venture and a serious financial problem to its management. The management approached the Government of India with a request that it should be taken over. The Estimates Committee appointed by the government in 1950-51 examined the affairs of the Shipyard and recommended its being taken over by the government in partnership with the Scindia Steam Navigation Company Ltd.

paid for docking—in order to send the ships to Calcutta port either for repairs or pre-delivery check-up. He maintained that the cost of dry-docking formed part of the cost of the ship and had to be paid by the government as part of the subsidy. If in about four years' time, *i.e.*, by the time the dry dock would be ready for operation, the Shipyard could turn out 10 to 12 new ships a year as against the present 3 a year, the estimated interest cost of Rs. 3.76 lakhs on the capital-investment would be almost equal to the subsidy on those ships. Thus, he tried to prove that whether the government built the dry dock or not, their financial commitment to the Shipyard would be the same, practically. The managing director also contended that the port had to be viewed in its totality and not by each of its individual activities or operations to judge its profitability. He maintained that, since the port need not have to pay for the land and certain other construction works like dredging, it would be cheaper if the port contrasted the dry dock and, with the increase in the traffic, the revenues of the port would also go up. Moreover, he felt that the port had not been in deficit for the past two years, and a big dry dock like dredging was an essential port-facility which the government was bound to provide. He was of the view that since the port contributed considerably to the revenues of the railways, the Ministry of Railways should not look upon the finances of the port from a narrow point of view; thus, in determining policies, the profits of the railways might not be considered more important than the profits of the port.

Nearly six months after the government took over the Shipyard, the Minister for Production wrote to the Minister for Transport that the construction of the proposed dry dock would give alternative employment to some of the surplus labour which the Shipyard was going to retrench as a measure of economy in order to run the Shipyard on sound business lines. He contended that the retention of surplus labour by the Shipyard would inflate the subsidy by the Centre through an increase in the cost of the ships constructed. The ships were to be sold on certain parity prices and that any additional cost had to be met by way of subsidy from the Centre. He requested the Minister for Transport to look into the matter personally and see that the sanction for the proposed dry dock was accorded

as early as possible.

By January 1953, the National Harbour Board at its meeting in Cochin under the chairmanship of the Minister for Transport and Railways had emphasised the need for implementing the proposed dry dock project at Visakhapatnam, without delay, during the First Five Year Plan. The Planning Commission, as its Vice-Chairman stated, agreed to include the project among the various schemes claiming provision out of the lump-sum allotment of Rs. 50 crores for basic industries and transport. The Ministry of Transport and Railways considered either extending their existing dock—350' long—to 450' by 14' draft at low water, keeping the width of the dock unaltered at 60' which would cost about a third of the cost of building the proposed dock or building the proposed dock which, if decided upon, would require, in addition, funds for general harbour development, developments in connection with the setting up of an oil refinery by Caltex etc. But the Ministry had reason to believe that the dry dock by itself would not pay its way. As such, they were not inclined to find Rs. 1 crore out of the provision made in the First Plan for the development of harbours. But the project could be financed from the Railway Development Fund which was created specially to finance schemes that might not be financially profitable but were considered necessary in the national interest. The Hindustan Shipyard by then could not think of undertaking the project because it was already running at a loss and the government had to spend large amounts on subsidising it. As this state of affairs was likely to continue in future, (it was felt that), it would not be possible for the Shipyard to take upon itself the construction of the dry dock. The Ministry of Production felt that even they would not be in a position to do anything independently without the agreement of the Finance Ministry and giving due consideration to the views of the directors representing the Scindia Steamship Navigation Company. It all appeared as though the difficulty lay in the decision of a procedural character as to which ministry should undertake the expenditure on the project.

It was clear that the Port Authorities were not inclined to take up the project within the First Five Year Plan period. To the Shipyard, the dry dock appeared to be a necessity. The

managing director thought that the following advantages would accrue to the Shipyard, if it itself built and ran the dry dock :

- (i) The dry dock would save the Shipyard Rs. 25,000 per ship delivered because a voyage need not have to be undertaken to Calcutta for docking.
- (ii) It would save the cost of labour earmarked for ship repairs which would otherwise remain idle.
- (iii) It would earn some contribution towards overhead expenditure, as the existence of the dry dock would attract ship repair work.
- (iv) In an emergency, it could be used as an additional slipway, i.e., a keel could be laid there and a ship could be built.
- (v) It would provide the Shipyard with additional fitting-out capacity and might ultimately save the Shipyard Rs. 40 to 50 lakhs which should have to be spent for extending the fitting-out jetty in future.
- (vi) It would provide regular work for about 180 repair workmen who were retained from being retrenched.

The managing director hoped to find the necessary amount from the sums provided for the development of the Shipyard in the First Five Year Plan.

At the 14th Meeting of the Board of Directors held in the first week of November, 1953, a Committee of Directors with the managing director as one of its members was appointed to consider the question of the Shipyard undertaking the construction of the Dry Dock. By about the middle of December, the Committee had discussed the question. One of the members held the view that it was preferable that an authority other than the Shipyard owned and managed the dry dock for the following reasons :

- (i) The government had been sinking large sums of money in the Shipyard which were not likely to bring in any return for a long time to come.
- (ii) The Scindias were not willing to provide any part of the capital required for the construction of the dry dock and it was not desirable for the government to go on increasing its investment in an unremunerative concern.

He felt that finance could be provided by the government to

that authority either free or at a concessional rate of interest on condition that the Shipyard should have the monopoly of repair work in the dry dock for a period of at least 25 years. The other members held the view that, while the economics of the working of the dry dock remained the same under any management, the economies of repair work carried out in the dock would be much greater besides giving the Shipyard monopoly of repair work, if it was owned by the Shipyard. The Committee ultimately felt that the Shipyard could take up the dry dock project provided the finance required was given by the government to the Shipyard in any of the following ways arranged in the order of preference :

- (i) As additional equity-capital.
- (ii) As non-cumulative preference share-capital with non-cumulative preferential right in regard to dividend and a preferential right as to capital in the event of winding-up.
- (iii) As a loan which should be interest-free for 12 years on the same lines as development loans given to major ports—i.e., free of interest for 12 years after which a rate of 4 per cent per annum was charged.

The Committee held the view that the sums provided in the Five Year Plan for the development of the Shipyard were not likely to be required in full and so a sufficient sum would be saved to meet the whole cost of the dry dock, and, as such, the dry dock project should be regarded as part of the development programme of the Shipyard itself.

A revised estimate for the dry dock with dimensions 560'×100'×26' was prepared by the Committee. The new estimate of capital expenditure was 132 lakhs as against the old estimate of 94 lakhs. If the length of the dry dock were to be increased to 600' and two 10 ton cranes instead of the two 5 ton cranes were to be provided, the capital cost would be about Rs. 150 lakhs. A revised estimate of the receipts and expenditure prepared by the Committee showed that, after the first five years, the dry dock would be able to pay for depreciation and the cost of operation and maintenance, leaving a small net income of about Rs. 50,000 a year. Interest on the loan was ignored assuming that financing would be in the form of an interest-free loan, equity or preference share capital. (Exhibits

1 and 3).

Shortly thereafter, the managing director, after obtaining the consent of the Board, submitted the estimates prepared by the Committee to the Ministry of Production and requested them to authorise the Shipyard to go ahead with the preliminaries connected with the project, e.g., the preparation of the necessary designs and plans. He informed the Board in early March 1954 about the government's decision that the Shipyard should undertake the project and a sum of Rs. 1 crore would be placed at its disposal as a loan at a concessional rate of interest—as a payable by port trusts—with the possibility that the loan would be converted into preference share capital at a later date. The Board authorised the managing director to obtain plans for the construction of the dry dock and fuller and more accurate estimates of the project. Messrs Rendel, Palmer & Tritton, consultants on the project were requested to give detailed advice in the matter. They stated that, as a very preliminary estimate, the cost of a dock $600' \times 90' \times 26'$ would be approximately Rs. 2.90 crores. But, when they were informed that the estimate prepared by the Committee for the same size dock was of the order of Rs. 1.50 crores, they, on further reconsideration, stated that, while it was not possible to arrive at any firm estimate without further investigations and a preliminary design, the figure previously quoted by them could probably be reduced to an amount between Rs 1.75 and Rs. 2.00 crores. But if the depth was to be of 30', it was likely to cost Rs. 2.50 crores. On the basis of these rough estimates, and due to considerable divergence of opinion as to the dimensions for the proposed dry dock, the Board could not sanction the scheme and so directed the managing director to write to the consulting engineers, London, to send one of their senior engineers to Visakhapatnam to undertake the preliminary site-investigations in order to prepare a preliminary design and a complete project report.

Mr. P.R. Robinson of M/s. RPT arrived in Visakhapatnam at the end of October, 1954 to carry out the preliminary site investigations. He had discussions with the officers of the Shipyard, the Port Authorities and the Director of Naval Construction of the Indian Navy. He investigated the sources of supply of material and went into the question of carrying

out further subsoil investigations. Keeping the three main purposes² of the proposed dry dock in view, Mr. Robinson decided that the maximum length of the dock need not have to exceed 600' on account of the following reasons :

- (i) As the dry dock had to be sited inside the harbour entrance, it was obvious that the size of the dock would have to be limited only to ships of 600' long which could pass through the entrance-channel, only after the improvements-in-progress to the channel would be completed.
- (ii) Even with the planned expansion of the shipyard which was taking place by then, the increase in the length of the ships to be built in future would be determined by the limitations imposed by the harbour entrance. By 1954 the length of the Shipyard's ships never exceeded 450'.
- (iii) The size of general cargo vessels throughout the world very seldom exceeded 600' in length and Visakhapatnam not being a terminal port, the size of the ship that could visit the Visakhapatnam port depended on the maximum size of the ship which the port of Calcutta, being a terminal port in the Bay of Bengal, could accommodate, *viz.*, 550' long.
- (iv) Tankers carrying crude oil to the proposed Caltex Oil Refinery would use the port as a terminal port. But, it was doubtful whether the comparatively small capacity of the refinery justified the use of the large tankers beyond 600' long.
- (v) A dock 600' long would be in a position to accommodate naval vessels upto most of the cruisers of any class then in use but not aircraft carriers.

As a result of Mr. Robinson's visit, an interim report was submitted by M/s RPT* wherein they suggested the following

- ²(a) The dry dock was intended primarily to serve as a facility for the Shipyard to be used for ships constructed by it.
- (b) It was required for normal dry docking purposes for merchant ships plying on the east coast of India, including tankers that would go to the Oil Refinery then under construction at Visakhapatnam.
- (c) It was required to accommodate naval vessels.

* M/s Rendell, Palmer, & Tritton.

three alternative sizes for the dry dock together with the cost estimates :

Size of dock	Cost (Rs. Crores)	Can be used by		
		Cargo Vessels	Tankers	Naval Vessels
1. 560' x 90' x 26'	2.00	All	14,000 DWT	Upto destroyers
2. 600' x 90' x 26'	2.15	All	18,000 to 22,000 DWT	Destroyers and Delhi & Nigeria
3. 670' x 100' x 26'	2.75	All	28,000 DWT	-do-

They also stated that, in order to increase the depth to 30', an increase of 20 per cent would have to be provided for in the cost estimates of the indicated sizes.

The Ministry of Production communicated the sanction for the construction of a dry dock of size of 600' x 90' x 26' at a cost of Rs. 2.15 crores in the week of March 1955. The Ministry stated that the amount would be advanced to the Shipyard as a loan, the terms and conditions of which would be settled as and when firm estimates were submitted and sanctioned. Tentatively, the loan was to be for a period of 25 years, interest free for the first 7 years and interest at 4 per cent thereafter.

Upon the advice of the consultants, certain preliminary soil investigations were undertaken on the basis of the results of which, a detailed design and a complete project report were submitted by them in September 1956. The managing director, general manager, chief engineer, controller of stores, civil engineer and secretary of the Shipyard had a meeting shortly thereafter, at which decisions were taken regarding the preparatory work to be done in order to start the project³.

- 3(i) To take steps to complete the railway-siding to the dry dock-site by the end of March 1957.
- (ii) To construct a storage-shed to accommodate about 3000 tons of cement, near the dry dock-site.
- (iii) To construct the necessary enclosures and bins for the storage of sand and other materials.
- (iv) To issue tenders for the supplies in January 1957.
- (v) To obtain supplies of cement.
- (vi) To take early steps to place orders for the steel including sheet-piles and get the authorisation from the Iron and Steel Controller to import the steel required.
- (vii) To issue advertisements for requirement of staff

The Board of Directors sanctioned the outright purchase of 15 acres of land at a cost of about Rs. 4.00 lakhs from the port authorities. The managing director requested the Ministry of Production to release the payment of Rs. 3.00 lakhs provided in the revised budget estimates for 1956-57 in order to deposit Rs. 3.40 lakhs with the Railway Authorities in connection with the construction of the Railway-siding to the dry dock-site.

In January 1957, the capital budget provisions for projects for 1957-58, as proposed by the Ministry of Production were accepted by the Planning Division of the Ministry of Finance, with substantial cuts. Of the total provision of Rs. 2108.73 lakhs proposed, only 1160.00 lakhs was accepted, thus, resulting in a cut of 948.73 lakhs. As such, a reassessment of the projects and programmes became necessary. The Ministry of Production informed the managing director that the debenture loan-provision of Rs. 45.0 lakhs to the Shipyard for the dry dock project in the capital budget of 1957-58 could not be accepted by the Ministry of Finance (Planning Division). They requested the managing director to let them know immediately the amount of cut the project could bear without affecting the target date, the effect of such cut on the target date and the financial consequences, *viz.*, the estimated loss per annum, of such a cut. The managing director contended that the dry dock project could not be viewed from a purely commercial point unlike the purely commercialised projects like the Nangal Fertilisers. It could be likened more to a strategic type of investment. Since the benefits would accrue from the project only about five years after the starting of the project, either the project could easily be postponed or on the basis of 'the sooner we start, the earlier the benefits will accrue', the project could be started immediately. The managing director stated that he was of the latter view. He pointed out that, of the total cost of the project of Rs. 2.15 crores—comprising a foreign exchange requirement of only Rs. 37.00 lakhs assuming that cement and steel would be available in the country—a sum of Rs. 1.33 lakhs was spent on soil-investigation (0.99 lakhs) and Establishment (0.34 lakhs) while commitments for consultants' fees (6.00 lakhs), preliminary work on railway-siding (0.25 lakhs) and cost of land (4.00 lakhs) etc., were made to the extent of

Rs. 11.25 lakhs. He felt that it would be impossible to revive the project satisfactorily within a period of one year or so if once the work on a project of this nature was discontinued. Instead, he made out a case for slowing down the tempo of expenditure in 1957-58 without materially altering the overall time-schedule. He thought that, if a sum of Rs. 20 lakhs was sanctioned for 1957-58, it should be possible to complete the project by the middle of 1960 instead of by the end of 1959. In case it was decided to delay the tempo of expenditure, the foreign exchange requirements could be rephased up to 1959-60—the only foreign exchange commitment so far was the fees Rs. 6.00 lakhs payable to the London consultants in two instalments of Rs. 4.00 lakhs and Rs. 2.00 lakhs—and by reducing the requirement for 1957-58 from Rs. 20 to Rs. 12 lakhs.

The Ministry of Production, as a result of the discussion it had with the study group of the Planning Commission on the foreign exchange requirements of projects under their control, requested the managing director of the Shipyard to send them further details regarding the investment made so far and the possible losses in terms of local costs and foreign currency if further stages of the project were postponed until the country's foreign exchange position improved. However, they assured the managing director that they were making every effort to find the requisite foreign exchange for the shipbuilding programme since each ship produced by the Shipyard saved foreign exchange to the country. The managing director stated that the Shipyard would have a foreign exchange commitment of 40,000 pounds sterling as soon as all the tender-documents, designs and plans relating to the project were submitted by the foreign consultants. He pointed out that since some preliminary work, such as surveying and levelling was done amounting to Rs. 0.25 lakhs, on railway-siding, the railway-siding work should be allowed to be completed at an extra cost of Rs. 2.75 lakhs so that it would compensate, to some extent, for the delay which was going to be caused by the postponement of the project. In such a case, the total commitment on the dry dock project would amount to Rs. 14.00 lakhs even if the project was postponed for one or two years. He requested an early decision in the matter by the Ministry of Production.

The Ministry of Finance was appraised (by the Ministry of Production) of the position explained by the managing director. The Ministry of Finance while admitting the future usefulness of the expenditure on preliminary survey contended that the expenditure incurred on levelling and laying the railway-track would be infructuous in view of the depreciation on the railway-siding for the postponed period of the project (loss of interest on capital till such time as it could be brought into effective use). Even from a social point of view, it would mean investment of precious materials like steel, etc., for a purpose which would not be utilised for an indefinite period and to that extent the requirements of some other immediate projects or industries might suffer. In view of the fact that no final decision as to the future of the project had yet been taken and the Ministry of Production themselves had no objections to the postponement of the project for a period of one or two years, the Ministry of Finance who were approached for concurrence in the matter of the grant of a loan of Rs. 3.00 lakhs for railway-siding advised the Ministry of Production to consider the possibility of postponing such expenditure. Appreciating the Finance Ministry's view, the managing director pointed out to the Ministry of Production that the construction of the railway-siding itself was a time-consuming matter since many government departments were involved in it. So, in order to reduce the delay and as a measure of economy he should be permitted to purchase the railway-track which was offered by the Railways as surplus to their requirement. He felt that such a step would ensure the construction of railway-sidings within a very short space of time when the project would be revived.

The Ministry of Production wrote to the managing director in March 1957 that a paper was submitted to the Working Group of the Planning Commission on the Dry Dock Project and at the instance of the Planning Commission, the Ministry of Transport had agreed to sponsor the project for World Bank Aid as part of their Port Development Programme. In April, the Shipyard came under the jurisdiction of the Ministry of Transport. The World Bank Mission visited the Shipyard in October to study the salient features of the project. It appeared that no assistance of World Bank could be obtained perhaps due to the fact that their interest lay in assisting

Madras and Calcutta ports only.

In March 1958, the Ministry of Transport informed the managing director about the government's decision to postpone the dry dock project for want of foreign exchange required for the project. They, however, stated that the proposal might be renewed at the time of framing the budget for 1959-60 when the position could again be reviewed. The financial effects of this decision were as follows :

(i) The actual expenditure incurred up to the end of March 1958 on the dry dock was Rs. 2.16 lakhs comprising soil-investigation work : 0.99 lakhs, establishment : 0.60 lakhs and diversion of the anti-malarial drain : 0.57 lakhs. A further expenditure of about Rs. 0.08 lakhs was expected to be incurred to complete the diversion of the drain.

(ii) Fees payable to consultants	
(a) Payable immediately	Rs. 4.00 lakhs
(b) Payable upon resumption of work or after 3 years whichever might be earlier	Rs. 2.00 lakhs
	Rs. 6.00 lakhs

(iii) The preliminary work on the railway-siding was not taken up as the supply of material was delayed by the Railways.

(iv) A provision of Rs. 4.00 lakhs was to be made in the budget for 1958-59 to meet the following commitments during the year.

(a) Fees to consultants	Rs. 4.00 lakhs
(b) Diversion of drain	Rs. 0.08 lakhs
	Rs. 4.08 lakhs

Less amount available with the Shipyard

(a) Sums advanced by the government	Rs. 2.32 lakhs
Less spent so far	Rs. 2.16 lakhs

Balance amount	Rs. 0.16 lakhs
Amount Required	Rs. 3.92 lakhs

Rs. 4.08 lakhs

Say Rs. 4.00 lakhs was required.

- (v) As to the savings resulting from the postponement of the project, it was, perhaps, the difference between the sum of Rs. 2.15 crores originally sanctioned for the project and the net amount of Rs. 8.24 lakhs ($6.00 + 2.16 + 0.08$ lakhs), if savings meant the sum not expected to be spent now out of the sum originally sanctioned for the project.

A loan of Rs. 4.00 lakhs towards the payment of fees to M/s. Rendell, Palmer and Tritton was granted to the Shipyard in December, repayable within a period of 25 years, free of interest for the first ten years and thereafter at 4 per cent interest per annum. The foreign exchange involved in the remittance of the amount, Rs. 4.00 lakhs, also was sanctioned.

In October 1959, the Minister of State for Transport, in one of his notings on the progress of important projects, remarked that the dry dock project scheme at Visakhapatnam should be expedited in view of its importance to ship repairs industry in the country as a foreign exchange earner and saver. The Ship Repairs Committee, in its Report, made a specific recommendation that the Hindustan Shipyard should, as a matter of policy, extend its activities to ship repair work and take early steps to equip itself fully for the purpose. The Committee specifically suggested that the construction of the dry dock should be taken up at Visakhapatnam at an early date and the proposed dry dock should be capable of accommodating T2 type tankers—approximately 600' in length and 62' in breadth.

As a result, the Ministry of Transport requested the managing director of the Shipyard for detailed proposals on the revival of the dry dock project together with an estimate of the expenditure that might have to be incurred on the project during 1960-61 for which provision had to be made in the budget of 1960-61. They also wanted that a revised estimate of the cost of the project should be obtained from M/s. RPT because the original estimate had gone out of date by then. They wanted the managing director to explore the possibility of obtaining sheet piles and well-point equipment from the Indian Naval Dockyard, Bombay, which was then in an advanced stage of execution, to reduce the immediate foreign exchange requirement of the project.

By about the same time (the managing director II) happened to have discussions with a representative of M/s. Gollnowwerks AG, Dusseldorf, West Germany, builders of floating docks on dry dock facilities. During discussions, he was given to understand that a floating dock of all welded construction with provision for maintenance of the underwater hull was the latest trend in floating dock construction and two such docks were already delivered to Italy and Greece by the builders. This all welded dock was also capable of extension to accommodate larger vessels if need arose. The West German firm was prepared to consider payment in rupee currency and was also agreeable to undertake the construction, partly in India and partly in West Germany. The managing director thought that, in view of the dire need for docking and repairing facilities at the Shipyard, he could put the idea of a floating dock before the Ministry of Transport, as an immediate alternative to the oft-postponed dry dock. As he wanted the approval of the Board before he could put up the proposal before the Ministry, he circulated a note on the floating dock among the members of the Board. The following were some of the main points of his note :

- (i) The cost of a floating dock of pontoon type with a lifting capacity of 9,000/10,000 tons, suitable to dock ships of 20,000 DWT, would be about Rs. 1.32 crores. Including the cost of extra dredging of about Rs. 2 lakhs at the mooring place, the total cost would come to about Rs. 1.34 crores as against the estimated cost of about Rs. 2.69 crores in the case of a dry dock. The foreign exchange involved would be about Rs. 21 lakhs as against Rs. 73 lakhs in the case of a dry dock.
- (ii) A floating dock need be submerged only to the depth that would allow the ship to enter the dock. Thus, in the case of smaller ships with less draft, the pumping work would be greater irrespective of the size of the ship.
- (iii) A floating dock would be ready for operation within a period of two years whereas a dry dock would require a minimum of four years.
- (iv) A floating dock would be moored to any convenient

place when not in use. It would be a definite advantage in the case of those damaged ships which could not be towed a long distance to reach a dry dock. Also, when a dry dock would be constructed, the floating dock could be made use of either by the Ministry of Transport or Ministry of Defence in other ports having no docking facilities.

- (v) But, compared with a dry dock, the maintenance costs would be a little higher in the case of a floating dock. Also the life of a floating dock was shorter than that of a dry dock, but if carefully maintained, it could serve for sixty years.

Soon the Board met to consider the idea of going in for a floating dock. They found the proposition attractive from the point of view of the time and the capital outlay involved but, because the entire cost would have to be in foreign exchange if it were to be constructed outside the country, they finally decided to proceed with the original dry dock project.

The Minister for Transport and Shipping had a detailed discussion on the floating dock project with Mr. Thiessen, the German Technical Adviser in the Shipyard in December. Also during his visit to West Germany that month, he had further discussions with the West German firm. The managing director, shortly before his European tour the same month, met the Minister. During his tour, the managing director discussed the project with a number of shipbuilding firms in Europe and was convinced that the only quick answer to the problem of providing docking facilities in the Shipyard was to go in for a floating dock.

Launching M.V. Uttar Pradesh at Visakhapatnam on December 31, 1959 the Minister for Transport and Shipping made a pointed references to the question of acquiring a floating dock and suggested that the feasibility and desirability of having a floating dock as an immediate alternative to the dry dock might be re-examined. At the Board meeting held in the last week of January 1960, the managing director pointed out that even with the contemplated extension of jetty by 160 feet, there would be accommodation in the jetty only for 3 ships. As such, there would be dearth of outfit accommodation for the targeted production of 4 ships a year. This was also due

to the fact that allowance was to be made for one merchant ship coming alongside the jetty to discharge imported machinery and equipment practically every two months. The managing director felt that the problem could be solved by acquiring a floating dock with the least possible delay, as a floating dock with all the facilities or cranage, electric power, compressed air, etc., could be used for fitting out operations of a ship apart from its being used for the docking of completed ships before delivery. Thereupon the Board suggested that the proposal could be considered only if a full report could be made available showing that the floating dock could be made cheaper and delivered quicker and with the same foreign exchange required for a dry dock. The Ministry of Transport was informed about the decision of the Board. The Secretary, Ministry of Transport, an ex-managing director of the Shipyard wrote to the Chairman of the Board of Directors that a floating dock did not appear to him to be a suitable answer for the lack of fitting-out space because of the fact that the ship could float on its own during fitting-out. Moreover, the total cost of fitting-out would increase tremendously due to the unsuitability of the available cranes on the floating dock and the problem of transporting materials from the wharf to the floating dock. He wondered whether the Board of Directors of the Shipyard would wish to wait for a dry dock until the floating dock project report had been submitted by the West German firm and considered by his Ministry.

The Ministry of Transport informed the managing director of the Shipyard in April 1960 that the Ministry of Commerce and Industries would be sending out a team to Poland to explore the types and qualities of equipment that could be got from a credit which the Government of Poland offered to the Government of India. As such, they wanted him to send them a detailed list of equipment such as cranes, pumps, caissons, etc., required to be imported. The managing director sent the list of equipment involving a foreign exchange of Rs. 89 lakhs but the Department of Economic Affairs agreed to suggested for the dry dock project Polish assistance to the extent of Rs. 50 lakhs. But the Polish assistance did not materialise in view of some other projects claiming priorities for such aid.

The managing director informed the Ministry of Transport, about the inability of the Naval Authorities, Bombay, to supply steel sheetpiles and well point system of dewatering equipment and, as such, the items had to be imported.

In early February 1961, the Ministry for Transport and Shipping expressed deep concern over the delay in taking up the dry dock project and the urgent need to bring it into commission at the earliest possible date by the quickest process possible. The Ministy of Transport pointed out to the managing director that, as the dry dock scheme was still under the consideration of the shipyard, concrete proposals, as approved by the Board, should be sent in order to enable them to obtain sanction for the project from the government. Thereupon, the managing director suggested the following four alternative solutions to the problem of docking facilities for a final decision to be taken by the Board:

- (i) To purchase from abroad a second hand floating dock.
- (ii) To purchase from abroad a new floating dock under a barter deal in order to save foreign exchange and facilitate rupee payment.
- (iii) To build a floating dock of rivetted construction in the Shipyard itself.
- (iv) To proceed with the execution of the dry dock project itself (Exhibit 4).

During the meeting it was pointed out by the representative of the Ministry of the Transport that a definite choice between a dry dock and a floating dock had not yet been made by the Board and this appeared to be the main reason for the delay in processing the case in his Ministry. Therefore, he felt that the Board should make a specific recommendation in the matter. Thereupon, the Board decided to convey to the Government the need for quick sanction and expeditious execution of the dry dock project.

The Managing Director sent to the Ministry of Transport a revised estimate of Rs. 2.69 crores for the construction of a dry dock with dimensions 620'×90'×24' (depth of sill below port datum) obtained from M/s. RPT. He also laid down, tentatively, the following phasing of capital expenditure and foreign exchange content of the project:

Year	Total amount of capital expenditure Rs. (lakhs)	Foreign exchange Rs. (lakhs)
1961-62	30.0	9.0
1962-63	90.0	29.0
1963-64	90.0	30.0
1964-65	55.0	5.70
Amount already spent up to 1961	4.0	—
	<hr/>	<hr/>
	269.0	73.7*
	<hr/>	<hr/>

As regards the operating and maintenance cost of the dry dock, the managing director felt that it would not be possible for him at that stage to make an accurate estimate, as not only his staff but the administrative authorities of Bombay, Visakhapatnam and Calcutta ports and the Naval Dockyard, Bombay, were not in a position to give accurate figures of fixed charges, maintenance, upkeep and running of plant, machines and structures and, especially, the annual receipts from docking operations for a dock of this size. In the circumstances he could assume an increase of about 20 per cent on the operating costs of Rs. 1.90 lakhs excluding depreciation estimated in 1954.

He expressed the view that it was not possible for him at that stage to give any estimate of the possible annual saving in foreign exchange as a result of constructing the dry dock; nevertheless, such savings would be quite substantial, as according to the Ship Repairs Committee, the total volume of ship repair work to be carried out in India would be of the order of Rs. 10 to 15 crores per annum in the immediate future. But, in mid-May, the Ministry of Transport wrote to the managing director that they anticipated difficulty in securing financial concurrence from the Ministry of Finance on the basis of such estimates.

*As per the Consultants' estimates, the foreign exchange content was likely to be of the order of Rs. 108.0 lakhs. But, the earlier Committee that was asked to go into the question reduced it to 73.0 lakhs.

The Ministry of Transport informed the managing director in July 1961 that under the World Bank Development Assistance to India, Japan indicated its willingness to grant a credit of 80 million Yen during the first half of the third plan period. As the Government proposed sending a delegation to Tokyo for discussions, they were in need of detailed information regarding the equipment required for the dry dock. Necessary information was sent by the managing director.

The Shipyard's proposal for the revival of the dry dock project at an estimated cost of Rs. 269 lakhs was examined by the Ministry of Transport in consultation with the Ministry of Finance. It was found that no details were given by M/s RPT for items totalling Rs. 228 lakhs in their estimates and also the Civil Works estimates were not checked by the Shipyard's engineers.

Two months later, the managing director wrote to the Deputy Chief of Naval Staff, and Chief Surveyor with the Government of India, who were on the Board, that he had no doubt in his mind about the distinct and important place, the floating dock had come to occupy in modern shipyards and repair yards. He cited the Hellenic shipyard in Greece which had a large floating dock installed with a lifting capacity of over 30,000 tons suitable for the docking of modern tankers. He felt that though the Board finally recommended to the Government in favour of dry dock, the foreign exchange was still be provided and the project itself to be included in the Third Five Year Plan, and as such, there existed still a case for the floating dock. He also wrote a letter to the managing director of the Garden Research Workshops, Calcutta, whether they would be able to construct a floating dock for the Shipyard. At the 71st meeting of the Board held in the first week of December 1961, the managing director made out a case for reconsidering the question of a floating dock by presenting the cost implications prepared by the Director of Ship Construction of the Shipyard. The break-up was shown in Table on p. 26.

The managing director felt that even if the required foreign exchange for the dry dock was found, which, he felt, was a remote possibility, the dry dock could be commissioned only by the end of the Third Plan. On the other hand, if a decision in favour of the floating dock was taken immediately, the Shipyard

	<i>Indigenous content Rs. (Lakhs)</i>	<i>Foreign exchange content Rs. (Lakhs)</i>	<i>Total Rs. (Lakhs)</i>
1. Steel	50.00	...	50.00
2. Labour	36.00	...	36.00
3. Equipment	25.10	17.90	43.00
4. Designs and Estimates	...	3.00	3.00
	<hr/> 111.10	<hr/> 20.90	<hr/> 132.00

would have the docking facilities within a period of 16 to 20 months from the date of the decision. The floating dock could be built either in the Mazagaon Docks, Bombay, or Garden Reach Workshops, Calcutta.

At the winter session of Parliament (1961), a number of interpellations were put in regard to the provision of docking facilities in the Shipyard. There was a good deal of criticism both in the Lok Sabha and the Rajya Sabha. The Minister for Transport and Shipping made the following remarks : "Having been initiated as far back as 1947, the provision of a dock has stood in queue for well nigh 14 years. This has been in spite of the fact that the need for docking facilities in the Shipyard has been well established and accepted on all hands."

The Ministry of Transport accorded sanction to the establishment of the dry dock at Visakhapatnam in January, 1962 at a cost of Rs. 2.69 crores subject to the availability of foreign exchange for equipment, machinery, etc., to be imported for the project. But it was evident from the prepared answer to the Parliament question on the progress of the dry dock project on March 28, that, so far as the Board of Directors of the Shipyard were concerned, they had lately been viewing the floating dock proposal in preference to a dry dock with some favour, particularly as the total foreign exchange involved appeared to be much less. The Ministry of Transport wrote to the Managing Director that it appeared from the minutes of the 66th Board Meeting held on February 14, 1961, that one of the reasons for dropping the proposal of a floating dock was

the difficulty in finding a suitable place for locating the dock in close proximity to the Shipyard. As the position of the Board on the issue seemed to have changed later, the Ministry wanted the managing director to enlighten them in the matter.

At the 75th Meeting of the Board held at the end of June, assuming that the annual receipts would be the same as in the case of the dry dock, the operating costs of the floating dock were discussed, in view of the fact that though the government's administrative sanction for the construction of the dry dock was received, the requisite foreign exchange for the project was yet to be found. The following was the statement showing the operating cost of the floating dock :

(i) Costs of Maintenance	<i>Per annum</i>
(a) structural maintenance	Rs. 10,000
(b) cleaning and painting	Rs. 40,000
(c) machinery	Rs. 5,000
(d) power supply and lubricating oils	<u>Rs. 15,000</u>
Provision for maintenance would have to be increased after the first 8 years	Rs. 70,000
(ii) Establishment	Rs. 42,000
	<u>Rs. 1,12,000</u>
(iii) Depreciation : 2½ per cent on the cost Rs. 1.32 crores assuming a life of 40 years for the dock	Rs. 3,30,000

The secretary of the Shipyard wrote to the Ministry of Transport in the last week of July that the Board decided to explore the possibility of acquiring a floating dock, either new or second hand from Yugoslavia or Poland under the non-transferable rupee payment arrangement without involving any foreign exchange. As such, a final decision would be taken by the Board about the floating dock only after receiving replies from Poland and Yugoslavia.

At the Board meeting held in the last week of September 1962, the representative of the Defence Ministry stated that the Ministry of Defence was considering a proposal from a Japanese firm to build a special type of dry dock with sheet-pile sides and concrete floor on piles at the Garden Reach Workshops, Calcutta, which appeared to be a more economical construction. Thereupon, the Board desired the managing director to contract

the Garden Reach Workshops for details. They also suggested that, if the representative of the Japanese firm were still in India, they might be requested to inspect the site and advise. The Board expressed concern over the delay in taking a final decision between a dry dock and a floating dock and so appointed a Committee consisting of the Additional Secretary, Ministry of Transport, Chief Surveyor with the Government of India, Directorate General of Shipping, Bombay, and the managing director of the Shipyard to submit a report in this regard by the middle of November.

A civil engineer was sent by the Shipyard to study the details of the proposed dry dock at the Garden Reach Workshops, Calcutta, which was the design of the Japanese firm—Ishikawajima—Harima Heavy Industries Co. Ltd. (Ships Division), Tokyo. It appeared from the engineer's report that while the life of the dry dock as per the Japanese design was only 30 years, it was going to cost as much as Rs. 1.40 crores as compared with M/s RPT's figure of Rs. 1.60 crores for a dry dock of mass concrete construction with an estimated useful life of 200 years. A comparative estimate of dry dock construction furnished by the engineer as shown below:

<i>Design</i>	<i>Capacity of the dock</i>	<i>Period of construc- tion years</i>	<i>Cost (Rs. lahks)</i>	<i>Useful life years</i>
<i>Japanese Design</i>				
1. $492' \times 82' \times 34'-5'' @$ $\times 39'-11\frac{1}{2}'^*$	10,000 DWT vessels	2	80.00	50
2. $620' \times 90' \times 35'-9'' \times 40'-3''$	24,000 DWT	3	140.00	30
<i>M/s RPT's Design</i>				
$620' \times 90' \times 35'-9'' \times 40'-3''$	24,000 DWT	$3\frac{1}{2}$	160.00**	200

For 1 and 2, maintenance cost at 1 per cent of the cost and for the RPT's design, $\frac{1}{2}$ per cent of the cost per annum.

@Depth over keel blocks.

*Depth over bed of dock.

**excluding civil works etc.

By December, the Committee on the issue of Dry Dock v. Floating Dock had studied the data furnished by the Shipyard in detail and reported that the following factors did not lend support to the construction of a dry dock in the existing circumstances:

- (i) The problem of foreign exchange amounting to about Rs. 73 lakhs which had not been sanctioned for the dry dock.
- (ii) The proposed dry dock to be more advantageous from the operational point of view should be within the shipyard premises. In keeping with the modern trend in Shipyards to reduce the number of berths and to concentrate on production by the extensive use of pre-fabrication methods, this would involve digging up one of the existing building berths, fresh soil investigations, redesigning of the project by the foreign consultants to suit the revised site, etc.
- (iii) Acute shortage of steel and cement in the country which were required in large quantities for the construction of a dry dock.
- (iv) Owing to the serious shortage of engineering personnel due particularly to the national emergency, the appointment of a chief engineer and a few experienced civil engineers would create a lot of difficulties besides taking a lot of time.
- (v) The construction of a dry dock would take 4 to 5 years.

But none of the problems would arise in the case of a floating dock. They cited the following factors as favourable for taking up the floating dock project :

- (i) It could be acquired and put into commission within about 20 months.
- (ii) No foreign exchange would be required for the purchase of a floating dock if the price was to be paid in non-transferable rupee currency.
- (iii) A floating deck would be useful to the country from the defence point of view.
- (iv) So far as the Shipyard was concerned, a floating dock would offer the docking facilities for less than half the cost and in less than half the time which a dry dock would entail.

But so far as the operational costs were concerned, there was not much to choose between the graving dock and the floating dock.

- (v) As the cost of the floating dock would necessarily be financed as part of the development programme of the Shipyard, the Government need not reimburse the interest liability to the Shipyard as special subsidy as would otherwise have to be done in the case of funds advanced for the dry dock project.

In the circumstances, the Board, at its meeting on December 17, decided to acquire a floating dock from an Yugoslavian Shipyard at a cost of 1.25 crores payable in non-transferable rupee currency and to be delivered within a period of 18 to 20 months.

The managing director wrote to the Ministry of Transport late in January 1963 that preliminary discussions were held with the Indian representatives of the Yugoslavian Shipyard and they had already started to finalise the details of the specifications of the floating dock. He pointed out that provision to the extent of the rupee expenditure of Rs. 1.96 crores, already existed in the Third Plan for the construction of a dry dock. In addition, in view of the existing national emergency, a fairly large amount of the development outlay of Rs. 2.44 crores proposed in the Third Plan period was anticipated to remain unutilised—so far less than one-third of the amount was utilised. As such, he felt that the floating dock could be financed from either of these two provisions as part of the development programme of the Shipyard in the Third Plan and the amount could be treated as share capital as in the case of the Shipyard development expenditure. He requested that the sanction of the government should be accorded to the acquisition of a floating dock at an estimated cost of Rs. 1.25 crores from Yugoslavia.

The Board's decision to acquire a floating dock from Yugoslavia came under the active consideration of the Ministry of Transport although it was still felt by the Ministry that a graving dock was a better proposition any day. There arose a possibility of the government sanctioning the acquisition of the floating dock from Yugoslavia if the Visakhapatnam port authorities had no serious objection to the proposed location

of the floating dock.

In the last week of May 1963, the managing director wrote to the Ministry of Transport that in view of the recent floods and the consequent difficulties experienced by the Port and also in view of the development programme of the port with regard to the Turning Circle, etc., which was being revised from time to time, no definite commitment could be made about the location of the floating dock, by the Port Authorities. The managing director felt that 'there appeared to be a ring of irony about the floating dock proposal' since the main idea in his proposing it was to save time and get docking facilities within a much shorter time. He felt that 'it was no use wasting any more time' in the 'fond hope' of getting a floating dock commissioned earlier, 'thereby willy-nilly postponing the construction of the dry dock'. Therefore, the managing director advocated before the Ministry of Transport that the original proposition for the construction of a dry dock should be pursued with vigour and the necessary provision for foreign exchange be obtained from the Finance Ministry as expeditiously as possible.

Two months later the Japanese team submitted a report on the dry dock facilities at Visakhapatnam. They did not favour a floating dock inside the port for the following reasons :

- (i) The port of Visakhapatnam was a multipurpose port, i.e., an export port, naval base, and a site for ship-building.
- (ii) With the port expansion scheme for the export to iron ore to Japan on hand, the size of the vessels entering the port would exceed 30,000 DWT due to widening the entrance channel to 1,600 feet and deepening the port to about 40 feet by 1964. Thus the port would become more congested in future due to increase in the number and the size of the incoming and the outgoing ore carriers, oil tankers, naval vessels besides outfitting vessels in the Shipyard. As such, a floating dock inside the port should be avoided as it would surely worsen the conditions of navigation of vessels inside the congested port.
- (iii) To relieve congestion, there was no other suitable site in the water area to float the dock except the one

selected by the Shipyard.

The team favoured the construction of a dry dock and worked out the profitability of a dry dock of $620' \times 90' \times 24'$ size as follows :

	<i>Vessels docking</i>	<i>Total docking days</i>
(i) Newly constructed vessels	6×7 days	= 42 days
(ii) Repair Work on Vessels :		
(a) Survey Work	6×25 days	= 150 days
(b) Minor Work	15×7 days	= 105 days
In a year, the dock will be working for		<u>297 days</u>

So the dock's operating efficiency is $297/365 = 80\%$

Revenue for repair works :

(i) 6 vessels \times Rs. 6.5 lakhs per vessel	= Rs. 39.0—Profit @ 15% = 5.8 lakhs
(ii) 15 vessels \times Rs. 1 lakh per vessel	= Rs. 15.0—Profit @ 20% = 3.0 lakhs
Total	<u>54.0</u> <u>8.8 lakhs</u>

(iii) Since the Shipyard did not possess its own graving dock and they had to send their vessels to Calcutta for dock facilities before sea trial, the expenditure so incurred would be as follows :

$$6 \text{ vessels} \times \text{Rs. } 88,000 = \text{Rs. } 5.28 \text{ lakhs}$$

Assuming that this amount would be a saving, the annual profit would be Rs. 14.08 lakhs. Assuming the capital cost of the graving dock would be Rs. 2.14 crores, the investment could be recovered in 15 years.

(iv) Moreover the Shipyard could save wastage of labour, i.e., about 65 officers and men for 7 to 10 days per Calcutta trip whose work could easily be utilised in the Shipyard.

The Team finally suggested that in view of the latest tendency of the vessels being built in bigger sizes and the future expansion scheme of the Visakhapatnam port, a final decision

on the dimensions of the dock should be taken by the Board. In August the Board decided finally to go in for the dry dock.

From September 1963 to April 1964, the Board could not determine finally the dimensions of the proposed dry dock because of the port development programme, including the widening of the entrance-channel undertaken by the Port Authorities. Neither were they able to decide about the site for the proposed dry dock in view of the fact that the location of the leading-in-dolphins in front of the dock at the originally proposed site would interfere with and encroach on the area required for dredging in order to widen the entrance channel. On account of the prevailing indecision in these matters, the managing director (III) and his staff could neither work out the time-schedules for the construction of the dry dock nor estimate the break-up of foreign exchange required for major items of equipment to be imported which had been required by the Ministry of Transport as far back as the middle of September 1963.⁴

By April, the expansion and the deepening programmes of the harbour were completed by the Port Trust. A draft of 33' was made available and ships 635' long could enter the port. The diametre of the turning basin was widened from 1200' to 1600'. Shortly thereafter, the Board of Directors decided in consultation with the Navy and the Port Authorities that the length of the dry dock should be 800'—with a possibility to extend the length later on to handle ships upto 50,000 DWT, the width, 120' between fenders and the depth, 30'.⁵ The managing director contracted the Port Trust Authorities to acquire the land for the project by outright purchase as he felt that such a purchase, instead of a lease, would be in the interests of the

⁴It was felt that the need for imported equipment would arise only when the construction of the dry dock reached certain stage of completion and it would be appropriate if the delivery of the equipment was synchronised with the completion of the civil works of the dry dock, so as to avoid blocking of capital and chances of deterioration of equipment left unused for a long period.

⁵The dry dock was to be the gravity type preferably with store masonry walls resting on monoliths or concrete flooring. In determining its size, it was roughly estimated that, of the total fleet on the Indian Register, about 35 vessels be within the range of 25,000 to 60,000 DWT.

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economic viability of the project, since the life of the project was long enough. But the Port Trust Authorities were not willing to sell the land to the Shipyard for the reason that the other port sites under their occupation had been on a lease basis all along. So, the Shipyard had to acquire 23.57 acres of land on lease for 99 years at an annual rental based on the present valuation of the land which would go for revision every five years.

Enquiries were sent to a number of consulting firms in Germany, Holland and Japan to obtain their quotations for the construction of the dry dock project in order to see whether M/s. RPT's quotations⁶ compared favourably with such quotations and finally to decide about the appointment of consultants for the execution of the project. Thirty-four Indian and foreign firms were contacted in connection with technical consultancy and construction and thirteen organisations for borings and soil-tests. Most of the foreign firms contacted for technical consultancy had been indicating :

- (a) a visit to the project-site at the cost of the Shipyard
- (b) a reconnaissance of the project-site and its surroundings conducting soil tests and model test as a prerequisite to offer their terms.

Moreover, the estimates of capital and annual operating costs in the light of the revised dimensions of the dry dock had to work out, the remuneration to the consultants to be decided and the foreign exchange required for the project to be programmed well in advance. These jobs required the services of a chief engineer. Efforts were made to obtain from the Ministry of Defence a civil engineer with experience in the construction of the Navy's graving dock at Bombay. The Ministry of Defence expressed their inability to spare an officer for the purpose. As a result the three firms which offered tenders for the work of borings were requested to extend the validity period of their quotations upto the end of January 1965 pending deputation of an engineer from the Ministry of Defence. The Ministry of Transport was trying to find a competent engineer for the project before the end of March, 1965.

⁶It is interesting to note that M/s. RPT gave different annotations—mostly approximating on different occasions for similar sizes of the dry dock.

In the Third Plan a provision of Rs. 2.00 crores was made for the project. A lump-sum provision of Rs. 10.00 lakhs was suggested in the budget-estimates of 1965-66 as no expenditure was expected to be incurred in 1964-65, i.e., before March, 1965.

In the first week of January 1965, the managing director held discussion on the preliminary works and allied administrative measures connected with the dry dock with the Development Adviser, Ministry of Transport. The Development Adviser was of the opinion that contractors need not be specially appointed for borings and soil-investigation but the Civil Engineering Department of the Shipyard should take up this work departmentally by obtaining the necessary equipment or taking the assistance of the Central Water and Power Commission, the Central Road Research Institute, etc., which generally possessed the equipment required to find out the rock-strata. The managing director informed him that efforts had been made to secure the assistance from such organisations but none had come forward to assist the Shipyard. Moreover, with the meagre personnel and lack of equipment, the job would not be feasible for execution departmentally. The Development Adviser suggested the setting up of a Tender Committee consisting of suitable personnel from Defence, Navy, Major Ports and Railways along with a senior representative of the Shipyard to screen the offers of consultants and construction firms before March, 1965, in order not to lose time till the appointment of a Chief Engineer, to be deputed possibly from the Ministry of Defence. He also suggested that planning to obtain steel should be made well in advance based on M/s. RPT's original design because an advance intimation of at least 18 months was required to be given to the Iron and Steel Controller.

Following the discussions, a Committee of Directors was appointed to examine the offers received from technical consultants. On the recommendations of the committee the Board decided to recommend to the government the acceptance of the offer of M/s. Koninklijke Nederlandsche Maatschappij Voor Havenwerken, N.V., Netherlands in preference to the Japanese firm because of favourable foreign exchange terms. In case the Netherland firm's offer was not acceptable to the government, the offer of the Japanese firm, Ishikawajima Harima Heavy

Industries was to be recommended in view of their low and reasonable offer and if, for any reason, both were not approved by the government, the offer of M/s. Intraco, Yugoslavia was to be recommended to the government in view of its rupee-payment feature. In view of the salient features of the Japanese firm's offer⁷ the Board ultimately recommended to the Ministry of Transport the Japanese firm's offer. The concurrence of the Ministry of Finance (Transport Division) was obtained for the appointment of the Japanese firm as consultants at a fee of Rs. 1,355 lakhs and the President's sanction was communicated to the Shipyard, in the last week of August 1965.

Early in January 1966, Lt. Col. P.K. Nayar from the Ministry of Defence who was responsible for the execution of a similar project in the Bombay Naval Dockyard Expansion Scheme was appointed as Chief Engineer for the project. He was a man who believed that, in spite of government delays, the subject matter of any work did not change and so what was required was the choice of an alternative course of action to reach the goal while pursuing the objective with the government in the mean time. He believed more in the team work of people than too much of figure work on paper. His motto was "make the best of what we have".

The chief engineer was given the status of project-administrator as he held the ultimate responsibility for the satisfactory completion of the project. A separate financial cell for the project was created within the chief engineer's jurisdiction under the overall control of the Principal Adviser and Chief Accounts Officer of the Shipyard. A provision of Rs. 4 crores was made in the Fourth Plan estimate, for the project on a tentative

⁷The salient features of the offer were :

- (a) The cost of consultancy included supervision of the boring work for a period of two months.
- (b) The firm was prepared to accept the entire remuneration in rupee currency.
- (c) The cost of consultancy would remain the same either for steel-sheet pile walling or masonry construction.
- (d) The period of submission of the final design report, i.e., four months from the time soil and other preliminary investigations were over was comparatively lower than those indicated by the other firms.

basis. In the budget estimates of 1966-67, a provision of Rs. 50 lakhs was provided on a lumpsum basis. In view of the urgency of the project and the limited time for its completion, the Chief Engineer was given powers necessary to enable him to place his requirements directly before the concerned departmental head, in particular, stores, personnel, and maintenance, without having to refer the matter to the managing director each time.

The Board approved the revised dimensions of 800' × 125' × 38.7'—capable of accommodating a 57,000 DWT ship-keeping in view the expansion programmes of the changing dimensions of the ocean-going vessels. The land for the construction of the dock was handed over by the Port Authorities to the Shipyard in April, 1966. Extensive soil-investigations at the dock-site through trial-bores, soil analysis and tests were completed under the supervision of the consultants. The designs, specifications and contract-drawings for proceeding with the civil engineering works had also been received from the consultants. A time-schedule for commencing civil engineering works of the dock in May 1966 and completing them by December 1967 was drawn up. About 465 tons of steel sheet-piles were required for the construction of the coffer dam which was an essential preliminary to start the excavation connected with the graving dock in order to keep out the sea from the working area. The managing director requested the Ministry of Transport for an allotment of Rs. 3.72 lakhs from the current yen credits for importing the requisite quantity of steelsheet-piles. In the middle of March, 1966, the Ministry informed the managing director that the steel sheet-piles were not eligible for financing under the yen credit. The managing director and the chief engineer were to solve the problem between them. To them, it was a question of postponing the benefit of an estimated annual earning of 50,000 to 100,000 pounds sterling arising from undertaking commercial repairs to foreign ocean going vessels, not to speak of the defence requirements of the local naval base. The question of redesigning the entire coffer dam would set back the time-schedule already worked out, by a few months, in addition to increasing the cost. They thought that the steel sheet-piles available from East European countries would not satisfy the design-requirements of the thickness and the section

modulus required by the exceptionally deep conditions existing at the entrance to the proposed graving dock. Suitable section could, no, doubt, be obtained only from the U.S.A. or the U.K. but only against the hard currencies. But there was the possibility of importing them from Japan if the Japanese government were approached in the context of the existing technical consultancy agreement with a Japanese firm. They contacted the Ministry of Transport who in turn contacted the Ministry of Iron and Steel and were able to obtain steel sheet-piles worth Rs. 3.72 lakhs from Japan, against the fourth yen credit, by the end of June 1966.

The civil engineering works connected with the graving dock consisted of open excavation of 2,83,000 cubic meters of earth and rock up to 11 meters below sea level, 34,000 cubic meters of reinforced concrete, 400 tons of steel sheep-piling and pneumatic sinking of monoliths through air-locks and decompression chambers. This required extensive employment of imported plant and machinery which the accepted tenderer would have to bring to site along with a team of experienced foreign technicians. To enable the work to be completed within the stipulated period, the plant and machinery would have to be worked at a minimum of 16 to 18 hours a day, thus causing it considerable wear and tear. In these circumstances, to provide the accepted tenderer with the foreign exchange quota to import spare parts, specialised equipment and provide for repatriation-pay and allowances of foreign technicians, the managing director requested the Ministry of Transport to approve a foreign exchange quota of Rs. 8 lakhs for the purpose. This foreign exchange facility had to be incorporated in the contract document expected to be issued to the accepted tenderer in the first week of June 1966. In the absence of such a provision, it was feared that no reputed contractor would tender for the project and satisfy the rigid requirements of quality control as laid down in the specifications. Tender documents for civil engineering works were released on 30th June, 1966 in order to facilitate the commencement of construction by October 1966.

The government approved the appointment of M/s. Ishikawajima Harima Heavy Industries as consulting engineers for the preparation of designs for the project in mid-July 1966.

The consultancy agreement with the firm was signed on December 1, 1965. The cost of the graving dock was finally estimated at Rs. 4.085 crores containing foreign exchange element of Rs. 64.785 lakhs (Exhibit 5). Government had to grant sanction for the project. In September 1966, dredging of 2 lakhs cubic yards of soft silt at the mouth of the graving dock was to be done at a cost of Rs. 6 lakhs to suit the proposed outer limits of widened entrance-channel. The chairman of the Port Trust indicated that this cost should be borne by the Shipyard itself. The managing director wrote to the Ministry of Finance that the question of who should bear the cost of dredging need not delay the ultimate sanction of the graving dock, in view of the relatively small amount involved.

In October the Finance Ministry raised the following issues with the Ministry of Transport in order to clear the dry dock scheme.

- (i) In view of the proposals to set up a dry dock of 950' × 130' × 30' (working depth) at Haldia⁸ whether it would be essential to have two dry docks of similar dimensions on the east coast.
- (ii) The full interest charge at 7 per cent per annum on the capital cost of Rs. 4.085 crores should be taken into account, though the Central Government might be bearing the interest charges for the first three years. With this correction, the operating economies would be as follows :

(1) Depreciation charges and maintenance charges	Rs. 13.81 lakhs
(2) Interest at 7 per cent, annually, on capital cost of Rs. 4.085 crores	Rs. 28.56 lakhs
Total	Rs. 42.37 lakhs

Taking the annual income at Rs. 28.3 lakhs, there would be a net loss of Rs. 13.87 lakhs even before

⁸The Planning Group on Shipbuilding in 1964, proposed the construction of two dry docks of 850' × 130' × 35' and 850' × 100' × 30' dimensions at Haldia, which was 56.5 nautical miles downstream off Calcutta. The docks were meant for the use of big ocean going vessels. The total estimated cost was about Rs. 40 crores. The first phase of the project was expected to be completed by 1970-71.

adjusting establishment charges, power, fuel, etc. Comparing this huge annual estimated loss to that of Rs. 50,000 on a dry dock of 600' × 90' × 26' for which the Finance Ministry's sanction was obtained earlier, the Ministry of Transport should consider the desirability of having the 600 feet long dry dock. Thus, even a 600 feet dry dock instead of the present 800 feet one would provide the Shipyard with adequate docking facilities to enable the ships of the size built by the Shipyard to be delivered to the customers after due inspection. A smaller dock of 600' × 90' × 26' would meet the main objective of providing the Shipyard with adequate docking facilities.

- (iii) Reasonably accurate estimates regarding the amount of saving in the foreign exchange by way of reduction of the expenditure on repairs now being incurred by Indian shipowners in foreign docks and the amount of foreign exchange earnings to the dock by way of providing docking facilities to foreign ships.
- (iv) Clarifications for the assumptions made by the Shipyard regarding 15 ships for heavy repairs, 20 ships for light repairs, per year and 60 per cent efficiency in operations because of the fact that even if these assumptions were fulfilled, the dry dock project would result in highly uneconomical working.

The Ministry also felt that full advantage had not been taken of the facilities available within the country for the manufacture of plant and equipment, dock-gates, leading in dolphins, etc. They suggested that the Mining Allied Machinery Project and the Heavy Engineering Corporation might be contracted in this regard.

They also requested the Ministry of Transport to state the immediate urgency of taking up this long pending project at four times the original cost when it was first sanctioned in December 1953, the approved cost was Rs. 1 crore—during the year 1966-67 when the government devalued the rupee and the large deficit in the budget called for the strictest economy.

In the last week of January 1967, the Ministry of Transport requested the managing director of the Shipyard to ensure that there was no infructuous expenditure incurred on the dry dock

scheme in the event of the project with the revised dimensions not being sanctioned by the government immediately. Disappointed by the Ministry's letter, the managing director replied that considerable headway had been made in the following directions in response to the directions of the Ministry in September 1965 that "expeditious steps must be taken for completion of this project which must produce results quickly" and "vigorous steps should be taken to execute the project within the shortest time possible."

- (i) Preliminary phases such as the acquisition of land, agreement with the State Electricity Board for the provision of electrical load including the erection of high tension transmission lines to site, recruitment of experienced technical supervisory staff and the procurement of materials and stores in short supply were completed.
- (ii) Site investigations and trial bores were carried out; designs and working-drawings were prepared; tenders for civil engineering works were issued and the acceptable tenderer was selected; site offices, storage-sheds, water supply, etc., were completed.
- (iii) The revised estimates of Rs. 4.085 crores were submitted to the Ministry of Transport for favour of obtaining government's approval as early as June 1966, along with a revised time-schedule for commencing the work in November 1966 and completing it by December 1968.
- (iv) The Shipyard was also given the privilege of the drawal of funds to meet the expenditure on the preliminary works against the existing sanction for Rs. 2.69 crores on August 25, 1965. A provision of Rs. 50 lakhs was made in the budget for 1966-67 and Rs. 15 lakhs was allotted so far against this provision.

The managing director maintained that as long as the project continued to get delayed beyond the scheduled date of commencement, the cost of establishment and allied overheads would be infructuous. Materials in short supply such as cement and steel which had to be ordered sufficiently in advance, in order to reach the site consistent with the planned programme of works, would deteriorate with the passage of time and the

invested cost would become infructuous. The rental for the acquired land and the minimum prescribed charges for the provision of electrical load would become infructuous. He contended that the infructuous nature of the expenditure bore a direct relation to the period of delay in sanctioning the project and the allotment of funds. He also felt that the rescheduling programme of works was not possible beyond February 15, 1967, considering the nature of the work involved and the climatic conditions of the region. He made it clear that delay in getting the sanction would inevitably mean reissue of tenders because the accepted tenderer indicated his unwillingness to extend the validity of his tender beyond February 28, 1967, owing to increases in prices of materials. Considering the fact that the tenderers who were competent to do this type of main work were few, the value of the tender in the case of reissue of tenders would also go up of course, to the disadvantage of the Shipyard. In view of the rising cost of materials in Visakhapatnam, a revision in cost-estimates could not be ruled out. He argued that it would not be easy to obtain trained personnel at a later stage; also that the cancellation of orders for cement and steel at this stage would add another six months or more at a later date when the sanction was received, owing to insufficiencies in production against demands.

In the light of these considerations, the managing director earnestly hoped that the Ministry of Transport would see to it that the project would be sanctioned before February 15, 1967. On March 30, 1967, the Ministry of Transport wrote to the managing director that the proposal of dry dock project on the basis of the revised cost of Rs. 4.085 crores was under the consideration of government. Finally on July 21, 1967, the revised sanction of the project for Rs. 4.085 crores with a foreign exchange component of Rs. 64.785 lakhs communicated to the Shipyard. In early August, the contract for the civil engineering works was awarded to M/s Continental Construction and Radio Hazaraat and work on the project started in October 1967.

The foundation stone of the graving dock was laid on December 10, 1967 by Shri Morarjee Desai, Deputy Prime Minister. He observed as follows : "In view of the fluctuating

fortunes of the Fourth Five Year Plan, it appeared at one time that the project would again be postponed...If the Government had sanctioned a small graving dock earlier, the biggest graving dock for which I am laying the foundation stone would not have been sanctioned and it would have taken at least 20 more years to get this big project."

The Chairman of the Shipyard, then, remarked : "The graving dock project...has had an unduly long period of gestation and chequered history. It is almost a saga of perseverance over repeated vicissitude."

EXHIBIT I

ABSTRACT SUMMARY OF CAPITAL COST—1951 and 1953 Estimates

(Size of Dock : 560' × 100' × 26')

	1951	1953
	Rs. (lakhs)	Rs. (lakhs)
1. Preliminary surveys, borings site clearance, etc.	0.50	1.00
2. Approach dredging	1.10	1.50
3. Dock construction	54.37	73.07
4. Pumping Stations building	1.50	2.00
5. Pumps	9.90	15.00
6. Inlet Tunnel	1.40	2.00
7. Lighting and power supply includ- ing substation and transmission lines	1.00	1.00
8. Compressed Air Plant and pipe line to dock site	1.00	1.00
9. Crane Track consisting of double rails— 16' gauge	1.68	2.50
10. Cranes	5.60	8.00
11. Miscellaneous equipment	2.90	5.00
12. Railway line	1.50	3.00
13. Roads, water supply and surface drainage, etc.	0.50	1.00
14. Staff quarters	1.50	1.50
15. Other buildings	2.00	2.00
	86.45	119.57
Contingencies 5 %	4.32	6.00
16. General charges such as consulting engineers' fees, work charged esta- blishment, etc.	3.25	6.23
	94.02	131.80

EXHIBIT II

ESTIMATES OF AVERAGE ANNUAL COSTS AND AVERAGE ANNUAL RECEIPTS (1951 Estimate)

Dry Dock Size : 560' × 100' × 26' (depth below datum to top of keel blocks)

Estimated Annual Costs :

A. Fixed Charges : (Rs. lakhs)

(a) Payment to general revenue to cover interest etc. @ 4% per annum on Rs. 94.02 lakhs	3.76
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(b) Depreciation :

(i) on Rs. 30 lakhs plant and equipment, etc., at 5 per cent per annum	1.50
(ii) on Rs. 64.03 @ 1/60 per annum	1.07
	6.33

B. Maintenance, upkeep and running of plant, machinery and structures :

(a) Staff	0.60
(b) Electric Power	0.25
(c) Stores	0.20
(d) Repairs and Petty Replacements	0.45
(e) Dock building structures, etc.	0.20
	Total Rs.
	8.03

Estimated Annual Receipts :

(i) 100 first days @ Rs. 2500 a day	... 2.50
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(Rs. lakhs)

(ii) 200 following days @	
Rs. 100 a day	... 2.00
Total 300 effective days	... 4.50

Estimated Net Income :

(1) Estimated annual costs as per 'A' above	8.03
(2) Estimated annual receipts	4.50

Estimated annual loss	3.53

EXHIBIT III
ESTIMATE OF RECEIPTS AND EXPENDITURE
1953 Estimates

(Rs. lakhs)

1.	Estimated cost of construction assuming the length would be 600 feet and 2 ten ton cranes installed instead of 2 Five Ton cranes.	150
2.	<i>Average Annual Costs :</i>	
	<i>(i) Depreciation :</i>	
	(a) on Rs. 45 lakhs plant and equipment @ 5% per annum	2.25
	(b) on Rs. 105 lakhs @ 1/60 per annum	1.75
		4.00
	<i>(ii) Maintenance, upkeep and running of plant, machinery and construction :</i>	
	(a) Staff	0.60
	(b) Electric power	0.30
	(c) Stores	0.30
	(d) Repairs and Petty replacements	0.50
	(e) Dock building structures	0.20
		1.90
		5.90
3.	<i>Estimated Annual Receipts :</i>	
	(a) 100 first days @ Rs. 3000 per day	3.00
	(b) 200 following days @ Rs. 1200 per day	2.40
	Total 300 effective days :	5.40

(Rs. lakhs)

(c) Saving for the Shipyard in not having to send the ships built by them to Calcutta for dry docking— 4 ships @ Rs. 25,000 per ship	1.00	6.40
4. Estimated Net Receipts per annum		0.50

EXHIBIT IV

FOUR ALTERNATIVE SOLUTIONS TO THE PROBLEM OF DOCKING FACILITIES

<i>Alternative</i>	<i>Number of offers</i>	<i>Estimated cost Rs. (lakhs)</i>	<i>Foreign Exchange content Rs. (lakhs)</i>	<i>Time required for completion or delivery</i>
1. Purchase from abroad a second hand floating dock	1	147.00	Entire cost	Towing time 2 to 3 months -do-
2. Purchase from abroad a new floating dock under a barter deal in order to save foreign exchange and facilitate rupee payment	1*	106.00	.0094	12 to 15 months from the date of order -do-
	1**	110.00	98.00	
3. Build a floating dock of riveted construction in the Shipyard itself	1†	145.00 to 150.00	45.00 to 50.00	25 to 28 months
4. Proceed with the execution of the dry dock project itself	1‡	257.00	73.00	4 years

* A specific offer of barter of rupee payment made.

** Quotations received. The builders have great interest in the project.

† Preliminary designs studied. Plans to be obtained from abroad after a decision is taken.

‡ Design work by consultants is well under way. Arrangements for supervision at site and finalisation of technical specifications are under discussion.

Leading particulars of the requisite type of Floating Dock :

- | | | |
|---|---|--------------|
| (a) Lifting Capacity | : | 8000 tons |
| (b) Length over keel block | : | 176.5 metres |
| (c) Clean width | : | 26.8 metres |
| (d) Maximum height of water
above keel block | : | 5.5 metres. |

EXHIBIT V

STATEMENT SHOWING THE ECONOMICS OF THE
GRAVING DOCK PROJECT*
(800' × 125' × 38.7')

	<i>Rs. (lakhs)</i>	<i>Rs. (lakhs)</i>
1. Estimated cost of construction		408.50
<i>Outgoings</i>		
2. (a) Depreciation on capital outlay of plant and machinery at 5 per cent on Rs. 120 lakhs	6.00	
(b) Depreciation on Rs. 280 lakhs, viz., investment on dry dock at 1/60 value annually (estimate life of dry dock taken as 60 years)	4.66	10.66
	---	---
3. (a) Maintenance charges of plant and machinery at $1\frac{1}{4}$ per cent annually	1.50	
(b) Maintenance charges of dry dock including maintenance, dredging at the entrance	1.05	2.55

4. Rent of leased land		0.85
5. Interest at 7 per cent annually, calculated for 7 years and distributed over a period of 15 years from the date of commissioning the dry dock		13.55

Total		27.61

*Appendix 1, p. 67, Committee on Public Undertakings, (*Third Lok Sabha*), *Thirty-Seventh Report, Hindustan Shipyard Ltd.*, March 1967, C.P.U. No. 58.

<i>Incomings</i>	<i>Rs. (lakhs)</i>	<i>Rs. (lakhs)</i>
6. <i>Heavy repairs to vessels :</i>		
(a) Assuming 15 ships in a year with average docking time of 12 days per ship repairs :		
(i) Labour and supervision	0.96	
(ii) Materials, power and fuel	5.00	
(iii) Profit at 25 per cent of cost	1.49	7.45
(b) Profit from heavy repairs at Rs. 1.49 lakhs each for 15 ships in a year		22.35
7. <i>Light repairs to vessels :</i>		
(a) Assuming 20 ships in a year with average docking time of 4 days per ship for repairs :		
(i) Labour and supervision	0.78	
(ii) Materials, power and fuel	0.32	
Profit at 25 per cent of cost	0.25	1.35
(b) Profit from light repairs at Rs. 2,500 each for 20 ships in a year		5.00
8. Rental charges for dry dock at Rs. 6,000 a day for maximum docking days of 260 in a year		15.60
Total incomings Net		42.95
Allow 60 per cent efficiency only in utilising docking days Rs. 42.95 lakhs × 60 per cent		25.77

Rs. (lakhs)

Estimated saving by discontinuing of docking of Shipyard's ships in other dry docks at Rs. 45,000 each for 6 ships in a year	2.70
Total incomings including savings	<u>28.47</u>

Profit Margin

9. Difference between incomings and out- goings at 60 per cent efficiency	28.47
Less	27.61
	<u>0.86</u>

The total investment on the project will be Rs. 408.50 lakhs. It is anticipated that there will be an annual return of Rs. 28.50 lakhs for the initial ten years which represents 7 per cent on the capital investment. It is expected that this will progressively increase to 10 per cent after the initial ten years.

**ESTIMATED CAPITAL COST OF THE DRY DOCK
OF 825' × 125' × 38.7'**

Rs. (lakhs)

1. Establishment—Staff quarters, office buildings, roads etc.	10.55
2. Plant and machinery and equipment	112.48
3. Civil Engineering Works	272.57
4. Cost of land on lease	2.45
5. Soil investigation, technical consul- tancy charges, etc.	10.43
	<u>408.48</u>

EXHIBIT VI

OPERATING RECEIPTS AND EXPENDITURE AS
ESTIMATED BY THE CHIEF ENGINEER IN JUNE
1968 FOR THE DRY DOCK, 800' × 125' × 38.7'

1. Estimated Total Number of Docking Days

Number of days in a year	...	365
Sundays and holidays	...	75
		<hr/>
		290

Docking days required for the

Shipyard's ships...

6 ships × 5 days	30
	<hr/>

Net docking days available	...	260
		<hr/>

2. Estimated Receipts

- A. *Heavy Repairs to Vessels* : Consisting of replacement and repairs to rudder assemblies and propeller equipment, hull outfit, welding and fabrication of major assemblies weighing upto 500 tons.

Number of ships anticipated in a year for heavy	15
repairs	

Estimates

	<i>Rs. (lakhs)</i>
(i) Labour and supervision charges	0.98
(ii) Materials, stores, power and fuel	5.00
	<hr/>
(iii) Profit at 25 per cent of cost	5.98
	<hr/>
	1.49
	<hr/>
	7.47

Total amount to accrue for 15 ships in a year

15 ships × Rs. 7.47 lakhs = 1120.05 lakhs

It is assumed that heavy repairs will take about 12 days per ship

B. Light Repairs to Vessels

Consisting of keel and bottom scrapping, cleaning, painting and minor repairs to under-water fittings.

Number of ships anticipated in a year for

light repair	20
--------------	-----	-----	----

Estimates

	<i>Rs. (lakhs)</i>
(i) Labour and supervision charges	0.78
(ii) Materials, stores, power and fuel	0.32
	<hr/>
(iii) Profit at 25 per cent of cost	1.10
	<hr/>
	0.25
	<hr/>
	1.35

Total amount to accrue for 20 ships in a year :

20 ships \times Rs. 1.35 lakhs = Rs. 27.00 lakhs

It is assumed that light repairs will take about 4 days per ship.

C. Rental Charges

	<i>Rs. (lakhs)</i>
Rental charges at Rs. 6,000 per day	15.60
for utilising the dock for 260 days ...	
<i>Total Receipts</i>	154.65

D. Extra Allowance for working during

Sundays and Holidays :

(i) Additional docking days available : 75

(ii) Number of ships anticipated for
light repairs, assuming 4 days per
ship for light repairs. : 19

(iii) Total Amount to accrue on
account of light repairs ...

19 ships \times 1.35 lakhs	25.65
------------------------------	-------

(iv) Rental charges for 75 days	4.50
---------------------------------	------

<i>Total</i> ...	<hr/> 30.15
------------------	-------------

Summary of Receipts

I. Estimated Receipts assuming 260 docking days	154.65
---	--------

Rs. (lakhs)

II. Additional estimated receipts for working during Sundays and holidays	30.15
Total Receipts	184.80
	<hr/>

Estimated Expenditure

Cost of construction of dry dock	408.50
	<hr/>

Operating Expenditure(i) *Depreciation and Maintenance*

(a) On Rs. 120 lakhs plant and machinery at 5 per cent of capital cost annually	6.00
(b) On Rs. 280 lakhs, civil engineering works at 1/60 of capital cost annually	4.66
(c) Annual maintenance charges on plant and machinery at $1\frac{1}{4}$ per cent of capital cost	1.50
(d) Annual maintenance charges of dry dock including of entrance	0.60
	<hr/>
	13.81
	<hr/>

(ii) *Interest*

at 7 per cent annually on Rs. 408.50 lakhs calculated for 7 years and distributed over a period of 15 years from the date of commissioning the dock

13.55

(iii) *Establishment*

(a) Heavy repairs	$15 \times 0.98 = 14.70$
(b) Light repairs	$39 \times 0.78 = 30.42$

(iv) *Materials, power & fuel*

(a) Heavy repairs	$15 \times 5.00 = 75.00$
(b) Light repairs	$39 \times 0.32 = 12.48$

Total expenditure	159.96
	<hr/>

	<i>Rs. (lakhs)</i>
Total Receipts	184.80
Total Expenditure	159.96
 Net Profit	 24.84
Add estimated savings by utilising dry dock for Shipyard's 6 new ship @ Rs. 1.20 lakhs	 7.20
 Total Profit	 32.04

Heavy Repairs Expenditure estimated at 12 days per ship

A. 1. Supervisory staff :

(i) Managers (1)	Rs. 50 a day
(ii) Assistant managers (2)	Rs. 40 a day
(iii) Foremen (2)	Rs. 30 a day
(iv) Assistant foremen (6)	Rs. 60 a day

Total	Rs. 180
for 12 days...	2,160

2. Crane and machine operation

15 nos. × 160 man-hours each	... 14,400
at Rs. 6.00 per hour	

3. Skilled labour

50 nos. × 192 man-hours each	... 57,600
at Rs. 6.00 per hour	

4. Unskilled labour

30 nos. × 192 man-hours each	... 23,040
at Rs. 4.00 per hour	

Say Rs. 0.98 lakhs.	97,200
---------------------	--------

B. Materials for heavy repairs

Rs. (lakhs)

(i) 135 tons structural work at Rs. 2.00 per ton	2.70
(ii) Machine shop and tool room charges	0.80
(iii) Paints, cleaning materials etc.	0.35
(iv) Fuel	0.40

	<i>Rs. (lakhs)</i>
(v) Power	0.60
(vi) Miscellaneous stores	0.15
	5.00

Light Repairs Expenditure estimated at 4 days per ship

<i>A.</i> <i>Supervisory staff</i>	<i>Rs.</i>
At Rs. 180 a day for 4 days	720
<i>2.</i> <i>Crane and Machine operators</i>	
15 nos. × 80 man-hours at Rs. 6 per hour	7,200
<i>3.</i> <i>Skilled Labour</i>	
20 nos. × 96 man-hours at Rs. 6 per hour	11,520
<i>4.</i> <i>Unskilled Labour</i>	
150 nos. × 96 man-hours at Rs. 4 per hour	57,600
	77,040
Say Rs. 0.78 lakhs	
<i>B.</i> <i>Materials for light repairs</i>	<i>Rs. (lakhs)</i>
(i) Paint, cleaning materials, etc.	0.25
(ii) Power and fuel	0.07
	0.30

EXHIBIT VII

PRINCIPAL DIMENSIONS OF THE GRAVING DOCK OF 800' × 125' × 38.7'

		<i>Metres</i>	<i>feet</i>
(a) (i)	Length from entrance to cope at head of dock	269	882
(ii)	Clear length available within dock (from head to inside face of caisson), i.e., effective length of dock	244	800
(iii)	Width between cope lines (clear width)	38	125
(iv)	Width at entrance (between pump houses)	42	138
(v)	Width at entrance (between fenders) i.e., clear width	37	122
(vi)	Depth of water over sill at mean high water spring tides	8.10	25.57
(vii)	Depth at mean low water spring tides	6.65	21.81
(b) <i>Levels</i>			
(viii)	Coping level Service gallery	+ 2.5	+ 8.2
(ix)	Top of gate paved topping	+ 4.00	+ 13.1
(x)	Top of flooring	— 7.30 to 7.80	— 23.98 to 25.62
(xi)	Cill-level at the gate	— 6.50	— 21.30
(c) <i>Bed Stopes</i>			
Longitudinal 1 in 465 (descending towards entrance)			
Transverse 1 in 65 (sloping towards the centre).			

Some Salient Features of the Graving Dock

(i) *Entrance to the Port* : The entrance to the Port from the Bay of Bengal runs the East and West through a comparatively narrow gap between Ross Hill on the north side and

Yarada Hill on the south side. At the inner end of the entrance channel, there is a very sharp bend to the north-west into the turning circle of the port proper.

Owing to the small tidal range along this stretch of the coast, there is not any great current in the entrance channel, that is to say, it does not exceed 1 knot in either direction. Even during the monsoon the flow of water from the hinterland out through the harbour entrance is not sufficient to cause a serious current in the entrance.

Due to the protection afforded by the two hills on the north and south sides, there is not any great effect in the entrance channel due to wind. Such effect as there is, is mostly in line with the channel and not across it.

(ii) *Siting of Dry Dock* : The area of the dry dock is situated to the south-east of the Shipyard and south of the Anakapalle-Ferry Road. The dock as now proposed runs East and West with the South side of its entrance in line with the southern edge of the ultimate limit of dredged channel. The entrance of ships into the dock is facilitated by the provision of 4 nos. leading-in-dolphins situated on the edge of the dredged channel. The ship will be guided into the dry dock and aligned in position with the help of two nos. towing guide rails embedded in the long wall (on to the service gallery spanning over the counterforts) either side. The factors which have been taken into account in arriving at this arrangement are :

- (1) The relationship between the area available for the dry dock and the position, shape, ultimate limits of dredging and characteristics of the entrance channel.
- (2) The need for avoiding any permanent obstruction within the limits of the entrance channel and minimum degree of interference with normal traffic in the entrance channel due to ships entering or leaving the dry dock.
- (3) The need for direct and easy access for ships into the dock.
- (4) Access between the dry dock and the Shipyard.

(iii) *Tidal Data* :

Mean Highwater Springs	+ 1.60 M
Mean Highwater Neaps	+ 1.05 M

Mean Low water Neaps	+ 0.50 M
Mean Low water springs	+ 0.15 M

(iv) *Nature of Ground*: The ground in general consists of sandy stratum at the top (from an average ground level of 12'-0" to -12'-0") followed by brown stiff clay with little sand content (from -12'-0" to -36'-0") underneath which exists a somewhat decomposed/weathered rock of about 4'-0" to 10'-0" the hard rock touching at depths varying between 40'-0"to-50"-.

(v) *Pumps*: Two pump houses flank the entrance either side. Each pump house will be equipped with 1 No. 60 inch main mixed—axial flow pump of the vertical spindle type, driven by a 1000 H.P. electric motor. The dock contains at high water spring tide a quantity of 91,240 Cu. M. (of water) which can be pumped out in 2 hours if both the pumps are operated or in 4 hours individually, i.e., the capacity of each pump is 360 Cu/M/Minute or 79,400 gallons/minute, i.e., 360 tonnes of water/minute.

For drainge purposes, 1 No. 8" axial flow pump of the vertical spindle type of capacity 4 Cu./M/ minute with a 30 H.P. electric motor in each pump house, is provided.

(vi) *Gate*: It is proposed to have a floating caisson type gate at the entrance of dimensions 39.2 M. Long, 4.5 M. thickness (maximum thickness of the chamber) and 10.5 M deep, made of mild steel. It will weigh 850 tonnes with permanent ballast. The sinking or raising of the caisson is effected by means of water ballast. With this type of gate, the dock can be flooded in less than 1½ hours through the 6 Nos. 750 mm dia. sluice valves. It is intended to fabricate this gate in the shipyard itself.

(vii) *Other equipments*: Includes one 40 ton crane on one side of the dock and one No. 10 ton crane on the other side of the dock. 26 Nos. Bollards of 20 tons capacity each are located at 20 metres c/c on the long sides of the dock besides 4 Nos. on the dolphins and 2 Nos. 50 tons bollards at entrance over the pump houses. 4 Nos. capstans of 15 tons capacity are catered for—2 Nos. at the dock entrance and 2 Nos. at the head end of dock.

(viii) *Time of completion*: The entire construction is expected to be completed within 26 months from the date of commencement.

Meaning of certain terms

1. *Fitting-out Wharf*: It is place, where, from the moment a ship is launched until it is a fully equipped for her journey, the entire equipment—be it entire, machinery, pipelines, electrical equipment, radar system, cabins and the entire funship—done.

2. *Jatty*: Structures ‘thrown out’ or built out into deep water from the shore. The term is used at distinct from wharf or quay constructed along the bank.

3. *Shipway*: Is a marine structure with a heavily built deck sloped towards water-front for purposes of launching or hauling of ships.

4. *Berth*: It is a place which consists of arrangements for mooring up the ship and a platform for supporting the cargo-handling equipment.

Method of Dry Docking

“At low tide, after the keel and bilge blocks are arranged to receive the vessel, water from sea side is allowed to floor the dock. This is done by permitting the entry of water from outside through the sluices in the gates. The gate is then opened and the water level in the dock will rise with the rise in the tide. When the water level has risen enough so as to clear the vessel, with adequate margin over sill, that is over the gate bottom, the vessel to be dry-docked is manoeuvered in. In other words, the ship enters the dock on adjusting the water level inside the dock to that outside. The vessel is then properly aligned being kept vertical and central by the shores between the ship’s side and side walls so that with the withdrawal of water either with the receding tide or by pumping the vessel exactly sits on the pre-arranged blocks. Then the gate is closed and the water inside the dock is pumped out by high capacity pumps, while the ship is being lowered on to the keel and bilge blocks on which it comes to rest.”*

*Taken from “Dry Dock: An Economic Asset for Shipbuilding” by Sri T.R. Seshadri, Civil Engineer (Graving Dock Project), *Shipyard Reviews*, Hindustan Shipyard Ltd., Visakhapatnam.

EXHIBIT VIII

PRINCIPAL DIMENSIONS OF DRY DOCKS IN INDIA AND SIZES OF SHIPS
THAT CAN BE ACCOMMODATED

Name of dock	Principal dimensions			Size of ships that can be accommodated			DWT
	length from caisson to head	Entrance breadth	Depth at men high water springs on keel block	length overall	beam width	draft	
	(1)	(2)	(3)	(4)	(5)	(6)	(8)
<i>Calcutta</i>							
1. King George's dry dock No. 1	600'-6"	80'-0"	32'-0"	550'-0"	75'-0"	30'-0" (loaded)	17,000
2. King George's dry dock No. 2	615'-0"	81'-0"	32'-0"	550'-0"	75'-0"	30'-0"	17,000
<i>Kidder Pore</i>							
3. Dry dock No. 1	547-0	67-0	22-6	520-0	63-0	20-0	15,000*
4. Dry dock No. 2	497-0	67-6	22-0	470-0	63-0	20-0	13,000*
5. Dry dock No. 3	350-0	57-0	22-6	335-0	48-0	20-0 (loaded)	8-000

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
<i>Garden Reach</i>							
6. Dry dock No. 1	464-0	59-5	10-2	Suitable only for light draft coastal vessels upto 2000 DWT only owing to limited depth			
7. Dry dock No. 2	326-0	59-7	9-8		-do-		
<i>Bombay Port Trust</i>							
8. Merewether dry dock	500-0	65-6	24-0 (at high tide 14'-0)	470-0	57-0	22-0	13,000
9. Hughes dry dock	1000-0	100-0 (without intermediate caisson)	34-0 (at high tide 14-0)	680-0	94-0	32-0	40,000†
<i>Mazagon Dock Ltd.</i>							
<i>Bombay</i>							
10. Ritchie dry dock	495-0	66-0	18-0	450-0	58-0	16-0	11,000
11. Mogul dry dock	426-0	59-0	16-0	380-0	50-0	14-0	9,500
12. Mazagon dry dock	154-0	34-0	9-0	Suitable for light draft coastal vessel only			

*Not suitable for fully loaded vessels.

†Maximum length of the ship that can be accommodated is limited by the width of the dry dock.

EXHIBIT IX
GROWTH OF INDIAN SHIPPING

Year	Plan Target GRT	<i>Actual</i>	
		Number	GRT
August 15, 1947		59	1,92,000
April 1, 1951		94	3,72,378
April 1, 1956	6,00,000	126	4,79,880
April 1, 1961	9,01,705	172	8,57,833
April 1, 1966	13,25,000	221	15,40,476
December 31, 1966		231	17,92,115
February 29, 1968		236	18,67,220
Under construction		37	5,68,300
on Feb. 29, 1968			
April 1, 1971	30,00,000		

SOURCE : Merchant Marine Directory, 1968 and prior years.

Relevant Excerpts from the 'Report of the Working Group on Port Planning, April 1964.

“The total number of existing merchant ships on the Indian Register is about 215.

- | | Expected No. |
|---|--------------|
| (i) When the Indian tonnage reaches the target of 2 million GRT, say, by 1966 | 300 |
| (ii) When the Indian tonnage reaches the target of 3 million GRT, | 360 |
| (iii) When the Indian tonnage reaches the target of 4 million GRT | 400 |

... It has been assumed that the number of dry dock days available in a year is 280, after allowing about 21 days for dry dock repairs, maintenance, etc., and about 64 days for Sundays and holidays. On the basis of past experience, it is considered that the number of days required by a vessel for dry docking will be 8.5 in a year.

...So the number of dry docks at 2 million tons

$$\text{GRT} = \frac{300 \times 8.5}{280} = 9$$

... the number of dry docks at 4 million tons GRT = 12

... As the existing number of dry docks effectively available for merchantships is only 5 (those of Calcutta and Bombay), the number of additional dry docks required would be 4 and 7 respectively in relation to the total requirements.

If it reaches 2 million GRT, 3 large dry docks, one at Haldia, one at Visakhapatnam and one at Bombay and 1 medium dock at Calcutta are required.”

EXHIBIT X

NUMBER OF SHIPS DELIVERED BY HINDUSTAN SHIPYARD DURING 1948-49 AND 1966-67 AND PROPOSED TO BE BUILT 1966-67 TO 1970-71

Year	Number	Year	Number	Year	Number	Proposed to be built
1948-49	1	1956-57	2			
1949-50	3	1957-58	4	1966-67	2	2
1950-51	2	1958-59	1	1967-68	2	4
1951-52	2	1959-60	4	1968-69	.	5
1952-53	3	1960-61	2	1969-70	.	6
1953-54	0	1961-62	2	1970-71	.	6
1954-55	2	1962-63	3			
1955-56	3	1963-64	2			
		1964-65	2			
		1965-66	3			

SOURCE : Fifteenth Annual Report of the Hindustan Shipyard Ltd., Committee on Public Undertakings (Third Lok Sabha), 37th Report, Hindustan Shipyard Limited.

EXHIBIT XI
**SHIPS THAT ENTERED VISAKHAPATNAM PTOR
 AND EARNINGS OF PORT DRY DOCK**

Year	<i>Ships entered</i>			Port dry dock gross earnings
	<i>Foreign going</i>	<i>Coastal</i>	<i>I.N. vessel</i>	
1963-64	472	206	40	49,674
1964-65	470	233	42	1,67,168
1965-66	477	149	54	33,496

SOURCE : Visakhapatnam Port Administration Reports.

Year	<i>No. of cargo vessels that visited Madras port where there are no dry dock facilities</i>	<i>No. of ships that utilised dry dock facilities at Calcutta</i>
1962-63	1258	296
1963-64	1280	161
1964-65	1345	186
1965-66	1405	189

SOURCE : Madras Port Trust and Calcutta Port Trust Administration Reports.

EXHIBIT XII

CERTAIN STATISTICS REGARDING REPAIRS TO
INDIAN OWNED AND FOREIGN OWNED SHIPS

As per the Ship Repairs Committee Report:

- (i) Earnings of Ship repair yards in India by conducting repairs to foreign owned vessels :

<i>Year</i>	<i>Rs. (lakhs)</i>
1955	176.38
1956	248.38
1957	310.18

- (ii) Estimated Turnover of Ship Repairing Yards in India

<i>Year</i>	<i>Rs. (crores)</i>
1958	9.5
1965	5.9

- (iii) From 1957-58 to 1964-65, Indian Shipowners continued to incur foreign exchange expenditure of the order of Rs. 1.5crores per annum on repairs to their ships abroad.

As per Merchant Marine Directory statistics :

- (i) Earnings of ship repair yards in India by conducting repairs to foreign owned vessels :

<i>Year</i>	<i>Rs. (lakhs)</i>	<i>Indian owned vessels</i>	<i>Rs. (lakhs)</i>
	<i>Rs. (lakhs)</i>		
1963	149.57		440.25
1964	156.67		435.18
1965 (approx)	119.13		N.A.
1966 -do-	151.06		N.A.
1967 -do-	172.00		648.00

- (ii) Foreign Exchange expenditure incurred by Indian ships that were compelled to go out of India for

<i>Year</i>	<i>Rs. (lakhs)</i>
1963-64	49.42
1964-65	85.00 (approx.)
1965-66	24.87 -do-

EXHIBIT XIII

REVENUE FROM REPAIRS DONE BY HINDUSTAN
SHIPYARD LTD.

<i>Year</i>		<i>Rs. (lakhs)</i>
1961-62	...	0.19
1962-63	...	0.93
1963-64	...	1.67
1964-65	...	2.28
1965-66	...	2.86
1966-67	...	7.71

EXHIBIT XIV

CERTAIN EXCERPTS FROM CHAPTER V : "ORGANISATION AND PERSONNEL" OF THE 37th REPORT : HINDUSTAN SHIPYARD LTD., OF THE COMMITTEE ON PUBLIC UNDERTAKING, MARCH 1967

"The Board of Directors of the Shipyard comprises of 13 directors of whom 7 are officials and 6 non-officials.

...The Secretary of the administrative ministry is also the chairman of the Board of Directors...The Committee on Public Undertakings in their Third Report (3rd Lok Sabha) recommended that it would not be in the interest of the undertaking to nominate the head of the administrative Ministry on the Board of Directors on the ground that (i) his presence would hamper a free and frank discussion of the issue involved, and (ii) the advantages of a second screening of the proposals of the Undertaking at the Ministry level would be lost because the officers in the Ministry would work with an impression that it has got the approval of the Secretary."

..."the presence of a senior most officer of the Ministry in the Board hampers the autonomous functioning of the Corporation and does not provide sufficient incentive to its Chief Executive to take independent decisinos, howsoever he may try to do so"

..."It is quite possible that with the Secretary of the Ministry having been the Chairman of the Board of Diretors, the Shipyard's management became complacent. The present arrangement has led to a diffusion of responsibility as between the Undertaking and the Ministry for the poor performance of the Shipyard.

..."The Committee consider it unfortunate that for nearly four years now the functions of the Director of Ship Construction and the Managing Director has been discharged by a single person. They feel that this has been a major reason for the overall unsatisfactory performance of the Shipyard..."

Setting Up of a Public Sector Corporation

V. Srinivasan

The present case study is a description of the setting up of a public sector corporation and the efforts involved in raising its resources. It attempts to describe how an industrial development corporation raised its resources from Rs. 25 lakhs on its registration to a total sum of owned funds of Rs. 5.6 crores in a little less than two years.

The major focus of this study is on how the resources of this Corporation were raised. It is relevant, however, to describe as background the circumstances and the manner in which this Corporation came into existence.

I

REGISTRATION OF COMPANY

Need for the Corporation

The genesis of this Corporation is the programme for development of industrially under-developed areas in a State. In the Third Five Year Plan, a scheme for the promotion in these areas of industries in the 'joint' sector, i.e., a partnership between Government and private industry had been included. Although Government did not undertake the promotion of joint sector projects in the manner visualised, from time to time, Government underwrote the gap for projects which had already completed a substantial amount of underwriting with the All India Financing Institutions, the funds being found from under this scheme.

Over a period of time, however, the various officials dealing with these cases came to feel that for Government to deal with these applications directly was unwise. It did not have the expertise of the All India Financing Institutions.

From time to time (during 1964), therefore, both the Minister (Industries) and Secretary, Finance Department had expressed their opinion that it would be necessary to set up an

autonomous body provided with funds from Government.

The Minister (Industries) was at this time the Chairman of the State's Area Development Corporation and the Chief Executive Officer, an extremely resourceful, intelligent and imaginative officer had over a period of time discussed the constitution of such a Corporation with the Minister. This had started as early as somewhere around the end of 1963/beginning of 1964, very soon after the Minister (Industries) had taken charge of the Industries portfolio. These discussions, however, had not borne much fruit. Before August 1965, the Minister (Industries) left the Cabinet and joined the Planning Commission and the Chief Minister had taken over the Industries portfolio.

A Proposal is Made

Although these proposals had been in discussion right from early 1964, the proposals did not really mature until about 1965. Somewhere around this time a proposal for the entire underwriting of the equity issue of a company located in an under-developed area came up for approval by Finance Secretary. The Finance Secretary, while approving this proposal had recorded a strong note urging the early constitution of a Corporation for financial assistance to industries in under-developed areas. In any case, over a period of time this proposal matured in 1965 and a Cabinet decision was taken to set up this Corporation in September 1965.

Who joined Government as Deputy Secretary, Industries and Labour Department on January 15, 1966 and soon afterwards took possession of this file. He found that a budget provision of Rs. 25 lakhs had been made and that if this Company were not incorporated, the provision made would have to be surrendered. He was also actively interested in being associated with it and he felt to hold dual charge would not be a disadvantage but would be positively advantageous to the Corporation. How true this was later facts will bear out. At this stage, while matters regarding the Board membership had not been finalised, he felt some time was required and in the meantime, therefore, marked the file to Law and Judiciary Department for some further examination.

Board Constitution is Taken Up

Industries Secretary himself was not quite clear in his mind as to how the Corporation should be constituted at this stage but certainly his own predilections were not to allow the Corporation to get out of the Government entirely. He felt that the scope of the operations, particularly, the fact that it might undertake directly major industrial projects was such that it should not be left with an entirely autonomous body. To keep the Deputy Secretary as the Managing Director would substantially meet this requirement even if the Chairman was someone else. This predilection was also strengthened by his own reluctance to make the statutory Industrial Areas Development Corporation as a kind of holding company for this Corporation by registering a company under the Companies Act with a common Board of Directors. So in the meantime, *he moved* and had preliminary discussions both with the Minister (Industries) (*i.e.*, the Chief Minister) and also with the Minister (Finance). After more discussions he finalised the Board of Directors and submitted a proposal that the Chairman should be the Finance Minister and three members for three regions in the State from the Government should be on the Board and the Secretary (Industries), Special Secretary (GAD) and Industries Commissioner should be the other Directors and Deputy Secretary (I) should be the Managing Director. This proposal was floated fairly early about the second week of February or so or a little later. The decision on the proposal, however, got delayed because the decision on the composition of the Board was completely political and there was, therefore, the need to be very careful in selecting the various Ministers who were to represent the various regions. Time was running out and until this Board was finalised, it was decided that it was not possible to draw the share capital. The legally permissible alternative of constituting a caretaker Board of minimum of officials and drawing the share capital provision was not attempted by the Deputy Secretary (I) since such an interim arrangement might become permanent if Government was not able to make up its mind, with a consequently weak Board.

A Crisis and the Board is Finalised

March 15th approached. The Deputy Secretary (I) decided

not to surrender the provision of Rs. 25 lakhs even when asked finally in early March for surrender as on 15th March 1966. Any amount not surrendered by 15th March has to be spent before 31st March and not to do so is considered a serious irregularity. The file was still unfinalised but the Deputy Secretary (I) decided that this was the only way a decision could be obtained. On the basis of the fact that it would have been a serious irregularity if the unsurrendered Rs. 25 lakhs was not used by 31st March 1966, Government finalised the composition of the Board on 28th March 1966. Orders were immediately issued for registering the Company as well as for drawing the share capital. The cheque was drawn on 29th March 1966.

II

As a result of the registration of the company and the nomination of its first Board of Directors, the Deputy Secretary (I) was simultaneously the Managing Director of the newly registered Corporation. As a consequence he dealt with other Departments on matters concerning his Corporation on behalf of Government; he also dealt with all Industries Department papers concerning his Corporation and he was thus in a unique position to know Government's mind on all issues concerning his Corporation at all time.

Raising of Share Capital to Rs. 1 Crore

The company's formation had been forced through but its resources were totally inadequate. Although the Corporation's authorised capital was Rs. 5 crores. The issued and paid-up capital was only Rs. 25 lakhs. The Deputy Secretray (I) felt that for the following reasons, the Corporation needed funds of at least Rs. 1 crore or more to be able to start and pursue effectively the business for which the Corporation was set up.

Unprofitability

With a Rs. 25 lakhs share capital base, the only income which the Corporation could expect in its early stages was interest from the deposit of its share capital with banks. The Corporation in that case was bound to run into loss very

quickly. The Corporation was set up only for the provision of equity capital and, therefore, could not lend money immediately. Even if it started lending, it would take a long time before money was actually disbursed. The revenue that could be raised in this fashion was just a Rs. 1,25,000 per year from mere interest. The expenses of the corporation to do its legitimate business would be of the order of Rs. 3 lakhs. The resultant losses would constantly *harass* the Corporation before the Public Accounts Committee and the Corporation's image would always be tarnished in public. It would spend more time explaining its losses in the PAC and it would not be able to concentrate fruitfully on its own business.

Strength

The prime need, however, was that the Corporation should have sufficiently large funds to be able to offer new industrial projects, sufficient equity funds to induce them to go to under-developed areas. At this time (1966) equity capital was very difficult to raise and most companies therefore found the offer of equity capital a powerful inducement to go out of Bombay and Poona, but such an offer had to be for at least Rs. 20 to Rs. 30 lakhs for project promoters to change their minds, whereas with resources of Rs. 25 lakhs the Corporation could in the light of its investment policy actually give an underwriting commitment of only about Rs. 2.5 lakhs. The Corporation therefore, needed resources of at least Rs. 3 crores in order to be able to perform effectively its functions.

A Word About the Investment Policy Referred to Above

Immediately after the constitution of the Board, the D.S./M.D. (Deputy Secretary/Managing Director) had piloted a resolution through the Board framing its investment policy. He felt that it was necessary for the Corporation to have a soundly conceived investment policy before specific applications came to the Corporation after which the policy of the Board might be influenced by the nature of the specific applications before the Board. The investment policy was framed in consultation with an experienced Development Banker of International reputation. The investment policy provided for restrictions on the total percentage of funds which could be invested in any

one company. Restrictions were there to the extent of equity, extent of loans and to the extent of total investment in any one company. These restrictions were reasonable restrictions but by the very nature of the restrictions, it also followed that Corporation had to have a sufficiently large corpus of working funds for it to be able to perform its functions.

To be able to raise total resources of Rs. 3 crores it was necessary to enhance the share capital from Rs. 25 lakhs to Rs. 1 crore. Only then might it be possible to raise about Rs. 2 crores in Government guaranteed bonds placed with banks and financing institutions. Both the equity/debt ratio as well as the fact that the status of the Corporation would be damaged by its very small share capital base were reasons which influenced D.S./M.D. in his deciding to press for more share capital vigorously.

M.D. Finds the Budget Provision Inadequate and Tries Three Times to Increase it

The Managing Director, therefore, explored the possibility of increasing the share capital by Rs. 75 lakhs to Rs. 1 crore. The budget provision was only for Rs. 50 lakhs, of which Rs. 12.5 lakhs was already committed as a consequence of earlier underwriting commitments. The actual amount thus available was only about Rs. 37.5 lakhs. In addition a Textile Corporation was to be formed for which the share capital provision of Rs. 20 lakhs had been made, leaving only Rs. 17.5 lakhs for the enhancement of share capital.

The First Attempt

The D.S. (I)/M.D. however, felt that a case could be made out on the grounds of the reasons earlier described, viz., that with Rs. 25 lakhs, it could not start work at all. Because the Chairman of the Corporation was Minister (Finance), he had submitted a note to his Chairman proposing that shares to the extent of Rs. 75 lakhs should be issued by the Corporation to Government. During these few months, however, a somewhat difficult financial position for the State had developed and fresh expenditure was being sanctioned reluctantly. As a result, the Finance Secretary had in another Corporation's case taken the view that Government could not sanction further share

capital as long as the company had not fully spent the money released earlier. The Managing Director apprehended that his proposal would provoke identical reactions and sounded the Chairman on his reactions to the proposal for additional share capital. Minister (Finance), however, felt that he had even earlier turned down, on the advice of his Finance Secretary a proposal for additional share capital to the Agro-Industries Development Corporation. He felt, therefore, that though there might be a case, it was necessary for the D.S. (I)/M.D. to convince the Finance Secretary.

The Second Attempt

The D.S. (I)/M.D. felt quite hesitant to broach such a proposal to the Finance Secretary. He knew his orthodox views in this matter. He felt that his chances of getting the Finance Secretary's views changed in this matter were very poor indeed. He, therefore, contacted the Special Secretary, General Administration Department, who was kind of informal Financial Adviser on Industry to Government to put in a word to the Minister (Finance). The subject was, therefore, taken up at an informal meeting of the Special Secretary, General Administration Department, D.S. (I)/M.D. and Minister (Finance). Minister (Finance) felt, however, that it could not really be pushed through until Finance Secretary agreed to change his views in this matter. Special Secretary, therefore, advised D.S (I)/M.D. to give up or to try to persuade Finance Secretatry to enhance the share capital.

The Third Attempt

D.S. (I)/M D. in the meantime had received a few applications for financial assistance. He also knew that the Finance Secretary knew Finance Minister's considerable interest in these projects. He, therefore, took some of these applications and submitted them to Secretary (Finance) and also enquired exploratorily the possibility of Finance Department's providing the enhanced share capital, since applications were pouring in. The Finance Secretary turned it down straightway after asking him what the expenditure had been so far and stated that it was outrageous that Rs. 25 lakhs share capital had been kept only with the Banks. As long as the Corporation was not in a

position to spend completely these Rs. 25 lakhs there was no point in giving additional funds to the Corporation.

The D.S. (I)/M.D. therefore, decided that at this stage it was pointless to pursue this matter.

Planning Department Assesses the Requirements

In the meantime, on 4th May 1966, the Planning Section of the Finance Department in the course of a routine assessment of various budgetary provisions started an assessment of the budget provision of Rs. 51.05 lakhs for participation in joint sector industries. Managing Director of the Corporation/D.S. (I) had an opportunity to discuss this note before it was sent from Planning Section of Finance Department to his Department. During discussion, it was agreed purely at the Deputy Secretary level that Rs. 75 lakhs should be provided for investment in the Corporation but that the earlier underwriting commitments (*i.e.*, for additional calls for share capital, etc.) should be the liability of the Corporation from the provision of the total share capital of Rs. 1 crore. This was confirmed by Deputy Secretary (I) when the note came formally to him and he agreed that the provision of Rs. 75 lakhs (which he stated fell short of requirements) would be acceptable to the Corporation. But the note was not circulated to Finance Department (Expenditure) for confirmation/for reallocation between provisions. At this stage it was not clear where the money was to come from.

Industries Department Provides Rs. 75 lakhs by Reappropriation

At the same time, a Textile Corporation of which the Managing Director was Joint Secretary (Textiles) in the state Government had been provided with Rs. 20 lakhs during that year. A note from Joint Secretary (Textiles) had been approved within the Department that Rs. 20 lakhs should be found out of the Rs. 50 lakhs provision. Therefore, as on July 1966, it was not clear where the Rs. 75 lakhs was to come from.

In the meantime the D.S. (I)/M.D. approached Government of India for approval to the capital issue of Rs. 75 lakhs. The Controller of Capital Issues referred this to the Planning Commission which asked the State Government from what provision they were going to find Rs. 75 lakhs money for share capital.

This letter had to be replied by the D.S. (I) who pointed out the various possible provisions from the capital budget from which this could be reappropriated. He indicated that a provision of Rs. 57.7 lakhs could be available by reappropriation of Rs. 20 lakhs capital outlay provided for share capital to the Small Scale Industries Development Corporation of the State and adding this to the Rs. 37.7 lakhs remaining out of Rs. 50 lakhs apart from the committed investments of Rs. 12.3 lakhs. No mention was made at this stage to the Government of India of the Textile Corporation. The M.D. as D.S. (I) had earlier got a decision from Secretary, Industries Department that the enhancement of Small Scale Industries Development Corporation's share capital by Rs. 20 lakhs was unnecessary, partly because this Corporation was in a position to finance their temporary requirements of cash and partly because steel decontrol had reduced their requirements of working capital. The amount of Rs. 57.7 lakhs plus further reappropriations which could be found out during the course of the year, it was agreed, would provide the Rs. 75 lakhs share capital. Accordingly, a letter after clearance from Finance Department (Planning) was issued to the Government of India.

Immediately thereafter the manner in which the budgetary provisions under the control of Industries and Labour Department were to be reallocated was worked out by Budget Branch of Industries Department also working under the Deputy Secretary (Industries). It was indicated that a saving of Rs. 30 lakhs in a provision under 'Basic facilities to public sector undertakings' could be made and that therefore Rs. 75 lakhs could be provided to the Corporation. This was in a comprehensive note on all the provisions of the Department. The note was approved by the Minister (Industries) who was also the Chief Minister at the time, but did not go to Finance Department (Planning) or Finance Department (Expenditure).

The Final Position

The final position as in August 1966 was :

- (a) That an appropriation of Rs. 75 lakhs towards the share capital of this Corporation had been approved by Minister (Industries) who was also the Chief Minister.
- (b) F.D. (Planning) had indicated its concurrence to a

provision of Rs. 75 lakhs to the Corporation in an assessment of particular provision requirements.

- (c) The manner in which this Rs. 75 lakhs was to be found, however, presented a confused picture. In the Departmental notings, it had, however, become clear that a maximum of Rs. 17.7 lakhs would be available from the original provision made for this particular Corporation.

The Deputy Secretary (I) had proposed on two separate occasions that Rs. 20 lakhs could be found as a saving from the share capital provision of the State Small Scale Industries Development Corporation and Rs. 30 lakhs could be found on saving from the water supply provision under the basic facilities for public sector undertakings. No clear orders on these had been passed in consultation with Finance Department (Expenditure) or Secretary (Finance) and the release of share capital had not been approved by Finance Department (Expenditure).

A Formal Commitment is Obtained from Government and the Controller of Capital Issues' Permission Obtained

The D.S. (I) as Managing Director of the Corporation moved Government on 19th August 1966 to approve the proposal of the Corporation to raise its issued capital from Rs. 25 lakhs to Rs. 1 crore. This proposal was received in Industries and Labour Department on 19th August 1966. The Branch working under D.S. (I) proposed that Rs. 75 lakhs should be found from Rs. 17.5 lakhs remaining provision and that a sum of Rs. 57.5 lakhs should be obtained as an advance from the contingency fund. The file was marked through Planning Department which approved it in principle and instructed that surrender orders for Rs. 57.5 lakhs should be issued at an appropriate time. The Managing Director of the Corporation discussed this with Secretary Industries and Labour Department and suggested that the Corporation may be informed accordingly. Accordingly, the Corporation was informed of the approval of the Government to the raising of issued capital by Rs. 75 lakhs. This was the first formal commitment to the enhancement of Corporation's share capital. Since at that time there was no balance in the contingency fund, Finance

Department (Planning) suggested that the money could be drawn only after supplementary demands had been presented. This was concurred by Finance Department (Expenditure) at the Dy. Secretary's level after which surrender orders were issued.

Soon thereafter the Managing Director/D.S. (I) went to Delhi and met Planning Commission's Director (Engineering) and the adviser concerned to expedite Planning Commission's clearance. After this, he delivered the file personally to the Controller of Capital Issues after which the Controller of Capital Issues gave permission. Immediately on receipt of Controller of Capital Issues' permission, the D.S. (I) Managing Director approached the Government for subscription of Rs. 75 lakhs on account of the above shares.

Share Capital Provision Released

In the meantime, the Legislature was in session and the contingency fund was shortly being voted. Accordingly the Branch working under the D.S.(I) proposed that since Controller of Capital Issue's permission was received and the surrender orders issued, Rs. 57.5 lakhs could be withdrawn from the contingency fund which together with Rs. 17.5 lakhs of the budgetary provision would enable the Government to subscribe to the share capital proposed to be issued by the Corporation.

This was then approved by D.S. (I) and Secretary, Industries, and marked to Secretary, Finance Department.

Secretary, Finance Department, however, had gone to Washington during this period and Joint Secretary, Finance, was acting during this period. On the basis of earlier notings, he approved this.

D.S. (I) M.D. immediately after the concurrence of Finance Department flew to Nagpur while the session was on to obtain the concurrence of the Chief Secretary. He obtained the concurrence of the Chief Secretary and discussed this with the Finance Minister thereafter and his approval obtained. These were the two members of the Expenditure Priority Committee for withdrawal from the Contingency Fund. A cheque for Rs. 75 lakhs was received by the Corporation.

An Alternate Proposal is Made and Dropped

In order to make sure of the long-term resources of the corporation and to make the plan provisions quite firm in regard to the Corporation, the Managing Director had under consideration a proposal to take Rs. 75 lakhs share capital as 20 per cent subscription towards additional share capital of Rs. 3.75 crores. After the cheque had been received, he moved Government to consider this Rs. 75 lakhs as 20 per cent contribution on a fresh capital issue of Rs. 3.75 crores bringing the total issued capital to Rs. 4 crores. It was marked to the Branch working under Deputy Secretary (I).

In the meantime, D.S. (I) discussed this proposal with Secretary, F.D. who had returned from his foreign tour. Secretary, F.D. indicated that he may give a note on this matter. However, when the note was submitted, Secretary, F.D., suggested that since no expenditure had been incurred out of the Rs. 25 lakhs share capital contribution originally made, the total Rs. 25 lakhs may be recalled and Rs. 75 lakhs share capital need not be paid to the Corporation and submitted the file to the Minister (Finance).

When the proposal to 'call back' the capital issued already of Rs. 23 lakhs was received in the Minister (Finance)'s office, D.S. (I) had an occasion to discuss this after which Minister (Finance) filed the proposal of Secretary, Finance Department.

It view of these developments, D.S.(I) decided that the proposal to issue Rs. 3.75 crores share capital could be dropped and Government should be allotted shares of Rs. 75 lakhs immediately. Accordingly, the Corporation's Board of which the Minister (Finance) was the Chairman allotted these Rs. 75 lakhs share capital.

Other Developments During the Pre-sanction Period

Throughout this period, M.D. acting as D.S.(I) was in full touch with Finance Department both Planning and Expenditure Sections and all the files concerning these matters passed through him. This gave him an unique opportunity to push the Corporation's proposals and progress by virtue of his knowledge of what was happening in Government and the resultant opportunity to seize the most advantageous moment

to press his proposals with the concerned Departments.

During this period, there had been demands from the Industrial Area Development Corporation for payment by Government of money for land acquisition which had always been paid by Government in the past. Since they had considerable liquid funds, D.S.(I) proposed that their demands may be met by payment out of sales of land transferred earlier. This view had been consistently opposed by the Chief Executive Officer of that Corporation, who, however, had gone abroad on leave.

The Officer-in-charge during his leave who was also expected to continue had agreed to this proposal since he saw no point in holding sizable liquid funds and at the same time pressing Government for money for land acquisition. Since this proposal to pay for land acquisition for the development of Industrial areas was accepted by the Industrial Area Development Corporation and, therefore, by Finance Department, the pressure for funds from the Industrial Area Development Corporation on the common provision was thereby reduced by the D.S.(I) and the provision for the Corporation's share capital contribution was accordingly maintained substantially intact.

During this time, a separate Development Corporation operating for a small area out of the Corporation's total territory was under consideration of Government. In response to local pressures, a decision was being taken to constitute this Corporation. Therefore, there was also a clear danger that the share capital contribution provision of Rs. 75 lakhs would be further eroded by this decision. Minister (Finance) was aware of the danger to the strength of this Corporation as a consequence of these pressures. Within a week after the issue of the Rs. 75 lakhs cheque, the decision to constitute a smaller area Development Corporation had been announced.

III

THE BOND ISSUE

The M.D./D.S. (I) Starts Action for the Bond Issue

The M.D./D-S.(I) had earlier come to the conclusion that

Rs. 1 crore was inadequate for the operations of the Corporation. At least Rs. 2 crores from the open market as bonds had to be obtained. Before launching on the procedural requirements, he first invited the Chairman of the Bank D for a discussion. He suggested that since the Corporation had very substantial deposits with the Bank D, the Bank should contribute a minimum of Rs. 90 lakhs to the Bond issue. He pointed out that the Chairman of the Corporation was the Minister (Finance). He argued that as a financing institution the Corporation would have a number of nominees on the Board of Directors of various companies which would be of considerable advantage to the Bank in the long run. Since these were both financing institutions with common interest, largely restricted to the State, the Bank would in the end profit by the strengthening of the Corporation. The Chairman felt that the Corporation had a strong case and stated that he was, however, shortly resigning from the chairmanship. He promised he would put in a word to the new Chairman Shri K. of a very leading house in *Maharashtra*. It now occurred to the Managing Director/Deputy Secretary (I) that in the K. Group there was a powerful industrialist Shri NAK who had considerable political influence. The M.D./D.S. (I) had helped him in a very critical situation three years before in setting up his industrial projects and he was now working as Managing Director of the same project of which Shri K. was the Chairman. Accordingly the M.D./D.S.(I) invited Shri NAK for lunch next time he came to Bombay from Poona, his headquarters. He mentioned this problem to Shri NAK and stated that he needed a bond subscription at least Rs. 70 lakhs from the Bank D and whether Shri NAK would help putting in a word to Shri K. for this purpose. Shri NAK stated that he would do this, since he was personally obliged for the M.D.'s kindness on an earlier occasion and stated that M.D.'s role at that time had been critical to him in setting up his own project.

Shri NAK then spoke to Shri K. who later indicated that the Bank would try hard to help. Immediately thereafter the M.D./D.S.(I) went to Poona and called on Shri K. along with Shri NAK as well as on the General Manager of Bank D and urged them to invest in these bonds substantially. No positive assurance was available at this stage but enough assurance was

given to the Managing Director to be confident of getting atleast Rs. 75 lakhs from the Bank.

Board and Reserve Bank of India Approve the Issue

This emboldened him to formulate his proposals for the bond issue. The M.D. placed his proposals for a bond issue of Rs. 3 crores before the Board and got its approval. Immediately thereafter he wrote to the Controller of Capital Issues for permission for a Rs. 3 crores bond issue and submitted to Government a proposal for guaranteeing the bond issue. The terms for this bond issue had to be approved by Finance Department in consultation with the Bank A to which the Finance Department referred this matter while processing it internally for the guaranteee. The M.D./D.S.(I) called on the Executive Director of the Bank A and persuaded him to accept the issue of Rs. 3 crores bond whereas the Bank A felt that the Corporation should not raise more than Rs. 2 crores when even established institutions like State Financial Corporation were raising only Rs. 1.5 crores. The Executive Director, therefore, approved a Rs. 2 crores bond issue but stated that if the Managing Director was able to raise Rs. 3 crores, he would permit the large issue.

Informal Reactions of Other Banks

The Managing Director/D.S.(I) then contacted the Managing Director of the Bank E through a common newspaper friend of his who had been of considerable assistance to the Bank. The Managing Director of the Bank E is an extremely dynamic banker and generally liked young officers. The M.D./D.S.(I) pressed for a subscription for Rs. 40 lakhs to the bond issue. The banker promised Rs. 25 lakhs on the condition that the Corporation placed deposits with that Bank for a total of Rs. 37.5 lakhs for a year and also that he would consider its enhancement to Rs 40 lakhs after he went back to his headquarter. In this case, the local Manager of the Bank E was quite resistant to the proposal and it was only the intervention of the common newspaper friend that enabled the proposal to go through.

The Managing Director as Deputy Secretary(I) over a period of time had developed excellent relations with the Vice Chairman of a leading Bank and had been consulting him

from time to time. He hoped, therefore, for a subscription of at least Rs. 40 lakhs from this leading private sector Bank.

Clears CCI Application

Based on what he felt was the reasonably definite support available from these banks, the Managing Director/D.S.(I) now actively pursued the application with the Controller of Capital Issues—and the application to the Comptroller and Auditor General for early appointment of an auditor—a procedural requirement before the prospectus could be issued. It was necessary to expedite these personally, because the bond issue had to be made before 31st December for it to be acceptable to the Banks and it was already late November. He went to Delhi and met the Controller of Capital Issues. After discussion with him and the clarifications he gave in relation to the equity/debt ratio, he obtained permission for issue of capital of Rs. 3 crores. At the same time, the M.D. called on the Comptroller and Auditor General whom he had known earlier in his capacity as Deputy Secretary and requested him to expedite the early appointment of the auditors. The auditor's certificate was necessary for the issue of the prospectus and for a Government company, the appointment of the auditor had to be done on the advice of the Comptroller and Auditor General. Leaving one of his deputies to pursue the issue of orders in these matters after the respective authorities had cleared them, the M.D./D.S.(I) returned to Bombay.

Other Sources Tapped

At this time, two major applications for industrial financing had come to this Corporation. Both these applications were from well established business houses who had representatives on the Bank B, Bank C and relation with the Bank F. The Managing Director/D.S.(I) called both the representatives and in one case in which the financing by the Corporation was critical to the company suggested informally that that business house should assist the Managing Director/D.S.(I) in securing subscriptions to the bond issue of at least Rs. 60 lakhs. The Managing Director/D.S.(I) had at this time no appreciation of what these amounts involved to these banks and what were the prime influences in these banks. This business house then brought a

broker who they stated would be successful in mobilising the bond issue but it soon became clear that neither they nor the broker would be in a position to be able to obtain subscriptions from the banks and were, therefore, practically useless for the bond issue.

Appointment of Brokers and Solicitors to the Issue

However, the broker was a major name in the share market and the M.D. felt that in view of his own limited experience, it would be advantageous to appoint his firm as 'Broker to the Issue'. This would ensure that at least all the procedural formalities of the Stock Exchange would be completed in time and ensure also that if there were any procedural flaws, they would be the responsibility substantially of the brokers whereas in the absence of a broker to the issue, if the Corporation committed a mistake, it would open itself to ridicule.

Likewise and for identical reasons, solicitors were also appointed. The prime advantage in choosing a small firm of solicitors was the fact that they would work to a time schedule which could be severely controlled by the Corporation. Actually the particular firm of solicitors had comparatively limited experience in matters involving Company Law but it was felt that the issue could never be held to any legal challenge by virtue of the fact that only major financing institutions were participating and if any legal flaws were discovered, they could be successfully smoothed over. What was needed was a firm which would completely cooperate in meeting the time table required for this prospectus.

While taking these broad policy decisions of holding some professional person as responsible for the procedural and legal requirements of the issue, the Managing Director/Deputy Secretary(I) clearly decided to delegate fully all procedural requirements of the job to a talented Junior Officer in the Corporation. All the procedural requirements were handled by him and he had to come up to the M.D./D.S.(I) only for ratification. It was specially the Junior Executive responsibility to see that the various provisions were sufficiently complied with at each stage and his business was to dovetail these into a final working procedure for the bond issue.

Underwriting Negotiations

The Managing Director/D.S.(I) devoted himself fulltime only to the underwriting of the issue by the various financing institutions. It was necessary now to get firm commitments from the various banks and financing institutions.

The Managing Director/D.S.(I) called on the Life Insurance Corporation's Managing Director. He was told that Life Insurance Corporation would not contribute this Corporation's issue as a matter of policy. He made a quick assessment that a change of policy would be very time-consuming and therefore was not worth the time that it would demand.

He then spoke to a leading industrialist who had been the Chairman of the Local State Advisory Committee for Industries and under whom he had worked as a Secretary in a State Advisory Committee. The Managing Director/D.S.(I) requested him to press the Bank G for subscription to the bond issue and at the same time he called on the Managing Director of the Bank. The Managing Director stated that his bank would assist this Corporation because it was the first bond issue and that it would contribute Rs. 5 lakhs.

The Managing Director then got letters issued to every major banker from the Chairman who was the Minister (Finance) requesting them to subscribe to the Bond Issue. He then requested Minister (Finance) to speak to the Chairmen of some banks. Most of these Chairmen promised to look into the matter.

The Managing Director/D.S.(I) at the same time through another industrialist whose application for financial assistance had been before him contacted the Chairman of the Bank F. At the same time a letter from the Minister (Finance) had gone to the Chairman. He called on this Chairman during his visit to *Bombay* and in an extremely quick decision was able to secure Rs. 10 lakhs assurance for a bond subscription in return for a Rs. 15 lakhs deposit with the Bank for a year.

This was a considerable advantage in negotiating with other banks. The Bank B was extremely reluctant to contribute anything more than Rs. 5 lakhs but raised it to Rs. 10 lakhs when the M.D./D.S.(I) informed the Bank through the Officer-in-charge who was a good friend of his that even a small bank located outside the State had contributed Rs. 10 lakhs. The

Bank B, therefore, agreed to subscribe to Rs. 10 lakhs. The Bank G for similar reasons agreed for Rs. 10 lakhs. The M.D./D.S.(I) had again called on Directors of these two companies and requested them for an enhancement but the subscription figure finally stood only at Rs. 10 lakhs.

Now it became clear to the Managing Director that a General Manager or the Managing Director of a Bank is really the ultimate decisive authority in all such matters barring the Chairman of the Bank and not the Directors of the Banks. Accordingly he concentrated his energies on the General Managers or the Managing Directors of Banks.

He called on General Manager, Bank D again and requested him for an enhancement from Rs. 25 lakhs to Rs. 65 lakhs. During this second visit to *Poona*, the Managing Director called on every Director in the city because a major contribution to the bond issue was expected from it. At this stage they agreed to contribute only Rs. 35 lakhs.

Similarly, he again called on the Managing Director of Bank C for a contribution to the bond issue. He found, however, that he would not agree to anything because the deposits in the State with that Bank were very low. However, he again called on him when he passed through *Bombay* and met him at the airport. The Managing Director of this Bank was impressed by the fact that the M.D./D.S.(I) had taken the trouble of meeting him at the airport and agreed to contribute Rs. 2.5 lakhs as a consequence. He did not enhance it despite considerable reminders over the telephone in this matter.

The Bank H was negotiated through the 'Broker to the Issue' who had good contacts with them. They agreed to a subscription of Rs. 5 lakhs only. Subsequently the M.D./D.S.(I) spoke to the Regional Manager, *Bombay*, who was located in Calcutta on the trunk and requested him for an enhancement. The result of this was seen in an enhancement to Rs. 7.5 lakhs from the Bank.

In the meantime, the Managing Director decided to travel to Bangalore and Madras to enhance the subscription of about 5 banks which were located there. Repeated trunk calls had not yielded any results. He could not meet the Managing Director, Bank E in Bangalore. He met the J Bank's Chairman and Managing Director who in spite of discussion did not

enhance their Rs. 5 lakhs already promised. He then met the Managing Director of the Bank K who also turned down this request. The M.D./D.S.(I) then went to Madras and met the General Manager and Secretary of the Bank L who enhanced the contribution from Rs. 5 lakhs to Rs. 7.5 lakhs because the M.D./D.S.(I) had called on him personally.

The M.D./D.S.(I) was grounded for a day in Madras because of a cyclone. During this period, he went carefully through the legal formalities and found a legal hitch to the issue of bonds with short notice as had been originally proposed in the time schedule. He had, therefore, to advance the bond issue negotiations by about 7 days in advance of the original programme. He, therefore, reduced the proposed bond issue from Rs. 3 crores to Rs. 2 crores and decided to issue the prospectus.

By this time, the total requirements had come to a little short of Rs. 25 lakhs to a total of Rs. 2 crores. The Bank D finally raised their contribution to Rs. 50 lakhs. However, since Shri NAK had originally promised Rs. 70 lakhs, he gave Rs. 15 lakhs from a bank over which he had control but which as a matter of policy did not invest in such bond issues.

This enabled the Managing Director substantially to close the gap. The leading private sector banker could give an enhancement only from Rs. 5 lakhs to Rs. 7 lakhs and the Bank D enhanced its contribution by Rs. 4 lakhs to close the issue.

IV

TRANSFER OF INVESTMENTS FROM THE STATE GOVERNMENT TO THE CORPORATION

From the beginning the M.D/D.S. (I) felt that one way of strengthening the Corporation would be to transfer the existent investments in shares of Government. They earned substantial dividends and by fixing a lower rate of interest on the loan given in kind as shares, it would be possible for his corporation to spend sufficiently on the preliminary staff and operational expenses without incurring a loss. He also felt that the organisation was in a position to buy expertise necessary to police the operations of the investee companies.

Transfer Approved

Accordingly he talked to the Minister (Finance) who suggested that he should discuss with Secretary, Finance Department exploratirily. Secretary, Finance Department, suggested that Corporation might buy the shares from Government and felt that revenue earning shares need not be transferred to the Corporation. It was not the purpose of the Corporation to police the investee companies and there was no need to provide more funds to the Corporation.

However, the M.D/D.S. (I) did not give up. At the earliest possible opportunity in September 1966, he floated a note proposing the transfer of these investments to the Corporation. The most important selling point for the transfer of this investment was, he felt, some analogy or precedent. In a similar case, where the existent industrial areas had been transferred to the Industrial Area Development Corporation the contention had been that it was a specialised agency for that purpose. He argued in a very brief note that, just like the Industrial Area Development Corporation, his Corporation would be the agency for management of these investments. This note was approved by Secretary, Industries Department who forwarded it to Secretary, Finance Department. Secretary, Finance Department, however was on tour in Washington and the Acting Finance Secretary cleared this proposal because of the strong and convincing arguments that the Managing Director/D.S. (I) had advanced both on the note and orally. Basically, he argued, commercial investments were not matters which Government had substantial expertise and the entrustment to the Corporation would remove complex problems and hand them over to an organisation which had the strength and flexibility to recruit the expertise needed for managing these investments. As an investment organisation, it would be in full touch with other institutions handling such matters and could not only therefore recruit expertise but also build up relevant expertise. The file was then taken immediately to Nagpur by the M.D./D.S. (I) and the approval of the Minister (Finance) and Chief Minister obtained.

Tax Advice Taken

The M.D./D.S. (I), however, felt that, before the issue of the

Government Resolution, it would be wrong to transfer these investments without taking into consideration the tax implications. Government was not liable to be taxed on the dividends it earned. The Corporation would have to pay tax on these earnings. Unless this question was, therefore, examined by a Taxation Consultant and his advice incorporated into the terms of this agreement, the transfer of possession would in the long run hurt Government because it would lose on tax paid by the Corporation and it would also expose the Managing Director to the charge that he had rushed through a proposal which was not basically sound.

He, therefore, had detailed discussions with the Taxation Consultant, who was Honorary Tax Adviser to other public sector corporations. This Tax Adviser was an extremely demanding person and discussions had to be with him delicately to avoid either his turning down the whole proposal or his taking excessive time over them. He required that the Chairman should address a formal letter to him referring the whole matter. This was done and the draft resolutions obtained from him and the proposal thus completed.

Finance Department Protests

In the meantime, however, when the file on which orders had been passed transferring the investments to the Corporation, returned to the Department, it aroused strong protest from the Deputy Secretary, Finance Department, who stated that this transfer had to be approved by the Legislature and that, therefore, Government had no powers. He submitted to the Secretary, Finance Department, who had by that time returned from Washington, a note requiring that these investments before they were transferred should be brought to the notice of the Legislature. Secretary, Finance Department, put up on this note another off-the-file note that the transfer did not meet the objectives of the Corporation and was, therefore, unnecessary and that the orders passed earlier should be reversed.

The M.D./D.S. (I) however, had expected some such developments and had, therefore, briefed Minister (Finance) and his Personal Secretary. As soon as this note was received, the Minister (Finance) called the Managing Director and asked

him to explain the points raised in the off-the-file note. The Managing Director explained and defended his position, after which the Minister (Finance) overruled the Finance Secretary on the off-the-file note in early January 1967. The file was sent down by the Personal Secretary, however, only after the Secretary, Finance Department, retired from the Department a month later.

However, the procedural requirements of the Deputy Secretary, Finance Department, were accepted and a supplementary demand was then put up for the transfer of these in 1967-78.

Proposal Runs into Difficulty Again

The final transfer of investments was completed only on 28th March, 1968. The proposal ran into fresh difficulties in January 1968 when after the Board of the Corporation had approved the proposal to take over the investments from the State Government and an extraordinary general meeting of the shareholders was called, one of the shareholders—an official of the State Government—recorded a note that it was against the interest of Government to transfer these shares since while Government did not pay any tax on its dividends, the Corporation would now pay tax on the dividends; therefore, there was a net loss to the State Government and the Corporation as a whole. In the extraordinary general meeting, therefore, instructions were given to the nominee of the Government to defer the consideration of this resolution. The Managing Director had taken this into consideration while framing proposals. The proposed terms of the Government resolution transferring these investments was actually a draft given by the Taxation Consultant to his Corporation taking into account this effect. However, he felt that if he immediately started getting involved in an argument on the pros and cons of this question, the issue would become more and more complicated, rigid postures taken and the whole proposal dropped. He, therefore, waited for Secretary, Industries Department, to return from his tour abroad after which he discussed the proposal with the Finance Department and finalised the transfer after explaining the tax implications of this proposal.

V

Share Capital Provision of Rs. 70 lakhs

A budgetary provision of Rs. 70 lakhs for share capital for 1967-68 had been made by the Deputy Secretary (Industries) when he was the Deputy Secretary in the previous year. In July 1967, Government had been anxious that the Corporation should underwrite an issue of Rs. 1 crore of shares for a project of considerable economic consequences to the State Government. While considering this proposal of Government, the Managing Director argued and his contention was accepted by Industries and Finance Departments that the Rs. 70 lakhs share capital provision had immediately to be released before such an assurance could be given by the Corporation. The Managing Director proposed immediately, after the issue of the letter, to the Board and the proposal was approved that additional share capital of Rs. 70 lakhs be issued. When the proposal was submitted to Government soon afterwards, it was cleared quickly on the ground that firm funds had to be available before the project came up with a firm request for underwriting. This request, however, did not mature for the next 12 months.

VI

The Next Bond Issue

At the same time, the deposits with the Banks were coming up for renewals. The M.D. felt that before they were renewed, he should negotiate and extract the full *quid-pro-que* from the various banks in terms of assurances for bond subscription for the bonds to be issued in December 1967. His Chairman felt that the bond issue should not be resorted to in December 1967 since their funds would not be substantially spent by then, but agreed that assurances for a future bond issue should be negotiated for.

Accordingly Rs. 70 lakhs share capital before it was placed with banks as deposits was negotiated for bond issue underwriting of Rs. 195 lakhs.

On the earlier proposal to the Chairman for a bond issue in December 1967, the Chairman had indicated that such an

issue would be premature until a substantial portion of the Corporation's funds were disbursed and its commitments were far in excess of its funds. The suggestion for the bond issue in December 1967 was, however, made by the Managing Director in order to tap the bond market at a time when the banks would be willing to contribute well before the busy season and when they were depending on the Corporation for such deposits as it was in a position to place with them. In order not to lose this advantage, the Chairman had directed that the Managing Director might negotiate for assurances for subscriptions to a bond issue to be made at an appropriate time the next year.

Accordingly on the basis of renewals for deposits as well as on the deposits of the fresh share capital money of Rs. 70 lakhs, the Managing Director negotiated with three banks for bond issue subscriptions to the extent of Rs. 195 lakhs. A bond issue of up to Rs. 3.0 crores, if necessary, by end April 1968 had become a distinct possibility.

The Managing Director felt that firm written assurances were necessary to strengthen his hands in the event of the National Credit Council intervening to make detailed allocations to state Corporation issues in the future and compel him to undergo the tortures of a quasi-Planning Commission exercise.

An Account of the Negotiations

(a) Bank D

When deposits with Bank D came up for renewal in September 1967, an assurance was sought by the Managing Director for subscriptions to a bond issue in December 1967. They, however, pleaded that they were not in a position to subscribe to the bond issue anything more than Rs. 25 to 30 lakhs since they had already substantially contributed to the state loans. The depreciation of these securities constituted a near-impossible burden on the bank and therefore, they would not be in a position to commit themselves to any subscription in excess of Rs. 25 to 30 lakhs. The Managing Director pointed out that in 1966, in spite of the fact that they had deposits nearly of Rs. 1.48 crores, their bond issue subscription was Rs. 54 lakhs only whereas the

Bank E and the Bank F agreed to bond issue subscriptions of Rs. 25 lakhs and Rs. 10 lakhs for a deposit of Rs. 37.5 lakhs and Rs. 15 lakhs respectively for a period of nine months, these amounts being inclusive of the amount that they had subscribed to.

In spite of these arguments, the Bank's General Manager felt that anything proportionate which now meant about Rs. 2 crores was impossible for them.

(b) Bank E

The Bank E was approached since it was the second largest subscriber to the bond issue during the previous year. It was agreed to a subscription of Rs. 60 lakhs for a deposit of Rs. 97 lakhs (inclusive of Rs. 60 lakhs subscription) for a period of nine months to a year. Therefore, the deposit with the Bank E maturing in September 1967 amounting to Rs. 37 lakhs was renewed for a year to 9 months on receiving the written assurance that they would subscribe Rs. 60 lakhs to the bond issue in December 1967.

Negotiations with other banks could not be completed before the various receipts could mature and it became necessary to place these immediately for an adequate time to avoid loss of interest. Therefore, Rs. 60 lakhs from these was placed with the Bank E on the understanding that since this Rs. 60 lakhs was placed in advance, their subscription to the bond issue would be available to the Corporation as cash subscription and would not be redeposited with them.

(c) Bank G

The Bank G was approached for a similar assurance. Their Chairman merely indicated that he could not give any commitment and that he would consider the question when we went in for the bond issue. On the basis of such an insubstantial assurance, the Managing Director did not place further deposits with them.

(d) Bank F

The Chairman, the Bank F was approached for a similar assurance. He felt he could not give an assurance without a clear knowledge of the availability of funds in May 1968. He only

requested that the Corporation should place deposits with the Bank and that he would consider its requirements sympathetically when the issue came up in 1968. On the basis of such an insubstantial assurance, the Corporation could not place any deposits with them.

(e) Bank B

The Bank B although one of the big five had been unresponsive to the suggestion that they might like to subscribe to the bond issue in return for the placement of deposits. Managing Director had spoken to the Chief of their Loans Division to send their Deposit Development Officer so that he would negotiate with them. Since there was no response, the M.D. did not pursue the matter.

(f) Bank H

The Managing Director kept contact with this Bank constantly through their Special Officer. The M.D. made a proposition that the Bank E ratio should be accepted and suggested that the Corporation could place deposits of Rs. 25 lakhs or above with them. The Managing Director met their Managing Director in this connection. The Bank's Managing Director indicated that in view of the very large demand for bond issue subscriptions from various States to which the Bank H had to cater, the ratio was totally unacceptable. In fact, they could not commit themselves to anything more than Rs. 5 lakhs because their total fund which they proposed to invest in State bonds was Rs. 40 to 50 lakhs against a total demand of Rs. 7 crores from all States.

Later on towards the end of December, on finding that the Bank H was still interested in even very short-term deposits for a period of 7 to 10 days to cover the 31st December balance sheet position particularly in view of their Silver Jubilee Year, the Managing Director offered about Rs. 15 lakhs to Rs. 20 lakhs as temporary deposit to be placed for 15 days in return for which an assurance for Rs. 5 lakhs bond issue subscription was offered by them and accepted by the Managing Director.

(g) Bank M

This bank by virtue of its All-India nature contributed

much smaller amounts than medium size banks have been prepared, to local bond issues. The previous year with very great difficulty, they were persuaded to contribute Rs. 7 lakhs which was much less than the contribution 7 to 8 banks smaller than them had made. It was also assessed that the Bank M was not easily amendable to negotiations of this kind since the deposits which any one Corporation placed would not be sufficiently important to a Bank of that size.

(h) Bank L

The L Bank's Local Manager was contacted; he stated that it would be impossible for him to commit his bank to any firm assurance for May 1968 and as such, no deposits were placed with this bank.

(i) Bank E again

In the meantime, since December 31 was drawing near, the Managing Director started discussions again with Bank E. He learnt that the Bank was very aggressive on deposits especially this year to cross Rs. 100 crore limit and the Managing Director felt that in such a situation, they might agree to bond subscription of a substantial order. Bank E agreed to a further subscription of Rs. 60 lakhs for a corresponding deposit of Rs. 97 lakhs (including such bond subscription). The total subscription for the bond issue from Bank E was thus Rs. 120 lakhs.

(j) Bank J

The Bank J had been extremely reluctant to subscribe to the bond issue the previous year. The M.D. was not confident that they would subscribe substantially or give a firm assurance of substantial subscription to the bond issue because it was understood informally that the Reserve Bank of India had objected to the very large portfolio of State Corporation's securities that they held for which they had to make very heavy provisions in their balance sheet for depreciation. However, the proposition was put to them and the Managing Director had discussions with themselves the last three days of the year 1967. The offer by the Corporation was Rs. 50 lakhs subscription by them for a total deposit of Rs. 75 lakhs (including the

subscription by them of Rs. 50 lakhs) for a period of nine months to a year. This was not acceptable to them. After some polite haggling on both sides, they ultimately agreed to a Rs. 70 lakhs subscription to the bond issue for a total of Rs. 120 lakhs deposit with them for a period of 9 months to a year (inclusive of bond subscription). The Managing Director accordingly placed Rs. 50 lakhs deposits with them for a year. This bank's ultimate acceptance, although they opposed the idea of subscribing anything more than Rs. 40 lakhs whatever the Corporation's deposits, in view of the difficulties that they might face with their own State Government, may be traced to their highly competitive attitude with respect to the Bank E.

The total assurance thus received were :

(a) Bank E	Rs. 120 lakhs
(b) Bank J	Rs. 70 lakhs
(c) Bank H	Rs. 5 lakhs

In general, during these negotiations, most of the banks were preoccupied with the reconstitution of their own Boards in pursuance of the Reserve Bank's pressure for social control, and as such were in mood to discuss assurances to subscription to a future bond issue. The Bank E and the Bank J were the only two banks which did not have any major problems in relation to the reconstitution of their Boards and as such were ready to negotiate and settle issues of subscription to the bond issue.

Bond Issue Proposal Cleared by the Board

The proposal for the bond issue was then considered afresh by the Board in February 1968. It was cleared primarily on the ground that with the creation of a National Credit Council, there might be problems in securing approval of the Bank A to the issue since quasi-Planning Commission exercises for rationing bond issues might be started. At the same time the anticipations were that by March end, more than half the resources of the Corporation might be exhausted and the remaining half would probably be consumed by October 1968. Since the bond negotiations with the banks would be on the basis of deposits remaining with them for a period of six months, a bond issue in April would be justified and not premature. Accordingly the proposal was cleared by the Board and a reference made to the

Bank A through the State Government and application to the Controller of Capital Issues made simultaneously. An application was also made to the State Government for the guarantee to the bond issue proposal.

While the proposal for the State Government had a smooth sailing and was approved shortly, the proposal for the bond issue ran into difficulties with the Bank A. The Bank A was prepared to permit only Rs. 3 crores issue by all the Government Corporations of the State in April. Since permission had been given for a Rs. 1.25 crores proposal for the State Electricity Board, the State Government reduced the Corporation's issue from Rs. 3.5 crores to Rs. 1.75 crores. The Managing Director felt on a discussion with the Reserve Bank of India officials that it would be difficult to secure the full Rs. 3.5 crores permission from them, *i.e.*, to increase the clearance from Rs. 3 crores to Rs. 4.75 crores. The only alternative was either to go in for Rs. 1.75 crores in April and again for Rs. 1.75 crores issue in October or to go in for a Rs. 3.5 crores issue in October. While the Bank A was prepared to agree to both of these alternatives, the Managing Director felt that the former was inadvisable because :

- (a) After Rs. 1.75 crores issue was realised in April, it might be difficult to secure permission from the Bank A for a fresh issue, for the same was contrary to the usual policy of permission only one issue in one financial year by the State Corporations;
- (b) The amount of managerial time lost in raising this Rs. 3.5 crores in two separate lots would be at least one Managing Director month and it was not worth therefore, pressing for it in two lots. The Corporation was not in difficulty immediately for resources and the needs of the Corporation would be amply met if the clearance of the Bank A for a Rs. 3.5 crores issue in October were obtained right now before the National Credit Council made its impact on the allocation of funds for such issues.

Therefore, the Managing Director accepted reluctantly the Bank A's alternative of going in for a Rs. 3.5 crores issue and obtained their formal clearance to the same for October. At the same time he pressed the Controller of Capital Issues for

its clearance to the bond issue in April. They had, in the meantime, however, enquired with the Bank A whether such permission would be given since May/September was a closed season available for only Central Government and State Government loans. Since the Managing Director was not particular about the raising of the issue before October in a telephonic discussion with the Deputy Controller of Capital Issues, he sought and obtained his permission to borrow any time between April 1968 and April 1969 excluding the period May/September. Therefore, by the end of March, the M.D. had secured :

- (a) underwriting assurance to the extent of Rs. 1.95 crores from three banks;
- (b) permission of the Reserve Bank of India for a Rs. 3.5 crores issue;
- (c) permission from the Controller of Capital Issues for the issue of Rs. 3.5 crores bonds; and
- (d) state government's guarantee to the Rs. 3.5 crores bond issue.

With these he was confident that he would be able to raise Rs. 3.5 crores in October making up the remaining Rs. 1.5 crores from various other banks and insurance companies, etc.

For this purpose and in order to maintain continuity of good relations, he placed token amounts at least with all leading banks, so that he would invoke these during his October bond issue.

VII

Short-term Loans

However, it was necessary that the Corporation should have spent its resources sufficiently to justify to the Reserve Bank of India going into the market for a fresh bond issue in October 1968. It is in this context that the instrument of short-term loans became an extremely useful device for building the funds of the Corporation in anticipation of a pick-up of demand while at the same time using the resources built up profitably until such time as the demand picked up.

In March 1967, the Managing Director felt that to wait until the demand for funds from the underdeveloped areas picked up was wrong so long as the Corporation had the ability

to raise funds from the market virtually from year to year on the basis of the temporary deposits with the Banks. The open market borrowing rate under the State Government guarantee being substantially low and its lending rate sufficiently high, it was possible for the Corporation to cover the marginal loss involved in paying a slightly higher rate of interest than what it obtained by depositing temporarily surplus funds with banks. At the same time, however, he felt that he should explore possibilities of getting a better return on the funds which he had raised in the open market by investigating the possibility of short-term loans. These short-term loans would enable the Corporation to earn interest between 9 and 11 per cent whereas the maximum return on deposit was 6 per cent. This would enable the Managing Director to make sufficient profits right from the second year of its operation. However, the objection to giving even short-term loans was that if they were given on conventional mortgages and if the borrower defaulted, then these funds would be blocked while the Corporation had to nurse the borrowing company or institute legal proceedings for the recovery, of these moneys; both of these would mean that the Corporation's funds would be tied up and not be available for diversion to underdeveloped areas when the demand from underdeveloped areas picked up. He, therefore, stipulated that all short-term loans would be secured by an insurance guarantee or a bank guarantee for repayment within one year. By this he was able to ensure that there would be a sufficient back flow of funds which he could maintain at the same volume or contract depending upon the requirements of cash for the underdeveloped areas.

However, a demand for short-term funds was only possible from strong existent units and these necessarily were in the developed areas. There was, however, a policy obstacle in lending to developed areas that the Corporation was precluded from investment in the developed areas normally. This was not a legal obstacle to the company but it was the investment policy of Government not to invest in the developed areas. It was, therefore, likely that any loan of this kind to the developed areas would come in for severe criticism from the Legislature on the ground that it was a distortion of the objectives of the company. He felt that although the short-

term character of these borrowings would by themselves be a sufficient defence it was also possible to buttress this defence by charging a very high level of interest for such loans. These loans in that case would legitimately be construed as investment of temporarily liquid funds with the Corporation in an absolutely secured and profitable loan.

The rate of interest he fixed at a 11 per cent although the Money Lenders Act stipulates a limit of 12 per cent because if it was fixed at 12 per cent, he would be criticised as having charged 12 per cent only because the Act forbade more. The interest rate at 11 per cent would make a show of restraint which would constitute a defence against criticism from the industrial public on the ground that the interest rate was excessive. This was also tempered by the consideration that the cost of funds to these companies would in any case be 12 per cent because the banks or insurance companies generally charged a guarantee fee of about 1 per cent. The third reason was that he felt that the volume of business which he could tape would be excessively restricted at an interest rate of 12 per cent.

The Managing Director, however, had no easy means of finding out whether there was any such demand for short-term funds. He, therefore, advertised in the newspapers under a Box Number without giving the name of the company the availability of funds against Bank guarantee or an Indemnity Policy. When he examined the response, he found that very few major companies had applied but one leading firm of brokers had indicated that their clients would be interested. To make this contact with the broker directly, however, would give way the fact that his institution was interested in so lending. He felt it would damage the image of this Corporation if the public began to feel that the Corporation was in desperate need to lend and once this rumour got around there would come about a number of proposals which would be contrary to the policy of the Corporation but suggested merely because of the availability of funds; he might therefore be pressed either through the press or through the Government to lending for activities which were essentially not consistent with the policy of the Corporation. He, therefore, arranged for an informal meeting with a member of this firm of brokers and after discreet

discussion, the broker himself talked about the needs of some of his clients. At this stage, the Managing Director suggested that in view of the recession affecting industry, although it was against the policy of his Corporation he would not be averse to any clients of the broker taking short-term funds from the Corporation provided they were secured by an insurance policy or bank guarantee. It is after this that the demand for short-term funds was established and over a period of time of nearly a year, these operations became a major part of the operations of the Corporation enabling the Corporation to cover the expenditure of its second year of operation and make a gross profit of about Rs. 2 lakhs. This has not been possible for any other Development Corporation in the very second year of its operations. This was possible in spite of a very substantial increase in staff expenditure and the commissioning of a large number of reports and feasibility studies. This also enabled him to 'inventory' his funds for a pick-up of demand after the recession was over and at the same time utilize his 'Inventory' profitably until such time as demand picked up. Another extremely important advantage that he secured from such short-term loans was that it introduced industry in Bombay to his Corporation and enabled him thus to get industry interested in shifting out to the underdeveloped areas. In other words it enabled the penetration of the market by the Corporation.

Summing Up

The Corporation thus found itself in a position to be able to raise a bond issue of Rs. 3.5 crores by October 1968. The total resources of the Corporation by October 1968 would thus be :

- Rs. 1.7 crores share capital
- Rs. 2.0 crores bonds already issued
- Rs. 1.0 crores shares transfer
- Rs. 3.5 crores bond issue in 1968

The total potential resources of the Corporation had thus been raised from Rs. 0.25 crores to Rs. 9.1 crores by October 1968, i.e., two and half years after its creation.

This has placed the Corporation in a dominating position as far as all local projects are concerned. It also enhances its competitive strength enormously because of the tremendous

superiority of resources *vis-a-vis* other State Corporation.

It enables it to finalise its plans to be able to enter into long-term assurances and commitments for major projects in which the provision of equity capital of even a Rs. 1 crore will strengthen a promoter's hands sufficiently to enter into a project of as much as Rs. 40 crores. The definite availability of these funds in marked contrast to the position of other State Corporations will, it is felt, be a critical factor in determining the location of projects.

According to the M.D., a few lessons flow from this case study particularly in regard to Parts I and II of the study.

1. It was because of the complete control over the provisions of the Department as Deputy Secretary (I) that the M.D. was able to get the share capital which the Corporation needed to set it up as a strong unit. In its infancy, therefore, this holding of the dual charge was tremendously useful. Soon after the M.D. had raised the resources needed, the Government at his suggestion decided to separate two posts. It was clear at this stage that the Corporation would be a strong and viable unit and the M.D. was quite frank that he had waited in his position as Deputy Secretary (I) until he was sure that the unit was strong enough for him to commit himself fully to it.

2. It is clear also that conventional governmental budgetary considerations could show a complete lack of understanding of the operations of normal institutions of industry and finance. If this Development Bank had been set up with just Rs. 25 lakhs share capital and had continued to wait till it expended its funds, it would never have been possible for it to negotiate with major industrial houses for substantial support to them in exchange for a mutually acceptable location. As described, the Rs. 1 crore share capital enabled the raising of share capital to Rs. 3 crores. With Rs. 3 crores funds, the amount that could be invested in any one company as equity was as much as Rs. 30 lakhs which was to be a powerful instrument for persuading units to shift their location.

3. The nature of public sector financing with annual budgetary appropriations and no assurances of their requirements being met from time to time, introduces a tremendous element of uncertainty in the operations of autonomous bodies

under their control. This is in contrast to private companies which when floated make substantially sure that the entire project finances are raised or are committed by virtue of loan sanctions or share capital which may only be partly paid up. Overruns are taken care of by choosing sufficiently strong promoters who undertake to bring in unsecured funds to the extent that it becomes necessary—a method for which there can be no analogous device in the public sector.

This uncertainty in the operations of public sector companies leaves them completely vulnerable to changes in the economy. Major industrial projects can be thus blocked as a result of their inability to find finance to complete projects. This is further complicated by the fact that there is no personal loss to any member of management in the event of such a stop to the activities of a public sector company. There is a case, therefore, for arguing that public sector bodies when they undertake projects should be in a position to draw both share capital and loans on the basis of the total sanction to the projects from an interim storage reservoir of funds which should act in the event of Government in a particular Ministry not being able to find funds for that project during that year. The Corporation under contemplation for public sector financing which has been mooted recently could possibly perform this function.

The Establishment of the Institute of Technology at the Banaras Hindu University

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This case study deals with the creation of an Institute of Technology in the Banaras Hindu University and highlights the operational style and interaction process of important decision making bodies of a University. It also shows how administrative decisions taken by democratic academic bodies exhibit a pattern of swift mutations, depending upon what considerations and pressures become dominant at a particular point of time. It also provides an insight into the methodology of the decision making apparatus at the government level where universities are concerned and how the administrative tensions and uncertainties of the university sphere percolate, to some extent, to the organs of government.

BACKGROUND

Mahamana Pandit Madan Mohan Malviya, the founder of the Banaras Hindu University, was alive to the need of imparting technical education in a university which was to grow ultimately as a leading institution of learning in a free country. Within a couple of years of the creation of the Central Hindu College (the first constituent College of the University), the Engineering College was established in the year 1919—the first institution in the country to provide technical education leading to Bachelor Degree in Electrical and Mechanical Engineering. Gradually other disciplines were introduced—Mining and Metallurgy, Chemical Engineering and Technology, Ceramic and Silicate Technology, Pharmaceutics, Civil and Municipal Engineering, etc. In due course three colleges in the area of technical education came to be established; the College of Engineering, the College of Mining and Metallurgy and the College of Technology. Post-graduate courses in all

the three technical colleges with facilities for Ph.D. work were gradually introduced. The courses of study were constantly reviewed and brought up-to-date to suit the needs of the technical education and to make the Banaras Hindu University the pioneering institution in the country in this field.

In the year 1966 separate faculties of : (i) Engineering, comprising the departments of the colleges of engineering and mining and metallurgy, and (ii) technology, comprising the departments of the college of technology were created.

After Independence the need for rapid industrialisation of the country was realised by the government. This required expansion of the technical education in the country with emphasis on quality. The Indian Institutes of Technology Act (No. 59 of 1961) led to establishment of the Indian Institutes of Technology at Bombay, Madras, Kanpur, Delhi and Kharagpur. Being institutions of national importance, the Indian Institutes of Technology soon became leading centres of technical education and research in the country. Generous and uninterrupted flow of grants by the Government to these institutions soon established their primacy. It became apparent that Banaras Hindu University could not retain its pre-eminent position in the field of technical education with I.I.Ts. coming up. The idea of setting up an Institute of Technology in the University on the lines of the Indian Institutes of Technology in the country was conceived under these circumstances.

On December 2, 1967 the Executive Council of the Banaras Hindu University considered, for the first time, a proposal for creating an Institute of Technology in the university, consisting of the then existing departments of the colleges of engineering, technology, and mining and metallurgy and such other departments as may thereafter be established, within the general framework of the Banaras Hindu University Act. The proposal envisaged incorporation of the provisions of the Institute of Technology Act, 1961 in the Banaras Hindu University Act by amending the latter.

The proposed amendment would have enabled the Vice-Chancellor of the University to be the Chairman of the Board of Governors of the Institute. It would have enabled the Visitor and the Executive Council of the University to nominate certain persons to the Board of Governors of the Institute and the

Academic Council of the University to nominate certain persons to the Senate of the Institute. Except these provisions, the Institute would have been an autonomous body, and would not be under the management of the Executive Council, the Academic Council and the Finance Committee of the University. The proposed Institute could have opted to come within the Central Council of Indian Institutes of Technology, constituted under section 31 of the Indian Institutes of Technology Act. Further, the Institute would have directly secured grants from the Central Government and would not have to go through the University Grants Commission.

The Executive constituted a Committee consisting of :

- (1) The Vice-Chancellor,
- (2) Dr. M.S. Mehta,
- (3) Dr. G. Pande,
- (4) Dr. L.S. Chandrakant,
- (5) The Principal, Engineering College,
- (6) The Principal, College of Technology, and
- (7) The Principal, College of Mining and Metallurgy

to explore the possibilities of organising an Institute of Technology comprising of the colleges of technology, engineering and mining and metallurgy.

On December 27, 1967, the Registrar wrote to Dr. L.S. Chandrakant, Joint Education Adviser, Ministry of Education about the decision of the Executive Council constituting a Committee for the immediate formation of the Institute of Technology comprising the colleges of engineering, technology and mining and metallurgy. The Registrar requested Dr. Chandrakant to attend the first meeting of the Committee which was to be held on January 19, 1968. The Registrar also informed him that the University has deputed Dr. Gopal Tripathi, Principal, College of Technology to discuss with him the entire proposal.

On January 5, 1968 Dr L S. Chandrakant sent a reply to the Registrar informing him that he had discussed the matter with the Union Education Minister and the latter was of the opinion that Dr. Gopal Tripathi should come to Delhi for preliminary discussions and should prepare a draft report after the discussions. Dr. Chandrakant also suggested that the date of the meeting of the Committee appointed by the Executive

Council may be fixed after the draft report has been prepared.

Accordingly Dr. Gopal Tripathi formulated three alternative proposals.

Proposal 1

This proposal envisaged the creation of a more or less autonomous Institute of Technology within the framework of the Banaras Hindu University Act of 1966. The Institute was sought to be created by framing necessary Statutes by the Court of the Banaras Hindu University. The legality of such a step required examination by the Ministry of Law of the Government of India.

Proposal 2

This proposal envisaged a full-fledged Indian Institute of Technology on the lines of the other Indian Institutes of Technology. The Indian Institutes of Technology, B.H.U. would have had the same constitution and autonomy as the other Indian Institutes of Technology and would have been created through an Act of Parliament. It may have had some tenuous links with the Banaras Hindu University on the basis that it was physically located in university campus.

Proposal 3

This proposal envisaged the merger of the three colleges of engineering, mining and metallurgy and technology into one single college which would have remained a constituent College of the Banaras Hindu University.

These proposals were discussed by the Vice-Chancellor and Dr. Gopal Tripathi with the officials of the Ministry of Education on January 15, 1968. During the discussions it was agreed that the setting up of an Institute of Technology at the Banaras Hindu University was both important and necessary. It was also agreed that the proposed Institute of Technology should function generally on the same lines as the Indian Institutes of Technology at Kharagpur, Bombay, Madras and Delhi. It was also agreed that the proposal No. 2 was practicable. However, it was left to the Executive Council of the Banaras Hindu University to discuss the matter further and request the Government of India for the establishment of the Institute of Technology in the University.

In the meanwhile, another development took place, a mention of which is necessary. The Banaras Hindu University Amendment Act, 1966 which came into force on December 31, 1966, did not specifically abolish the colleges that were functioning in the University nor abolished the posts of various Principals. However, the provision relating to the establishment and maintenance of colleges was repealed. Further, in the list of officers, mention was made only of Principals of Women's College and the Medical College.

On enquiry the Government of India clarified that the systems of colleges along with the Principals was to be abolished and that Departments were to be constituted under Faculties in the charge of the Deans of the Faculties concerned. Accordingly, the matter was placed before the Executive Council at its meeting held on May 2, 1967 and on March 2, 1968 the Executive Council while reorganising the administrative structure of the colleges of the University, resolved that the three technological colleges, *viz.*, colleges of technology, engineering and mining and metallurgy be merged to constitute the Institute of Technology with a Director.

The Registrar issued a circular to all the Principals of colleges apprising them of the decision of the Executive Council and requested them to take immediate steps to implement the reorganisation with effect from April 1, 1968.

On March 7, 1968 the Vice-Chancellor wrote to the Union Education Minister informing him of the pioneering role which the Banaras Hindu University had played in the field of technical education, the loss of its pre-eminent position because of the establishment of the Institutes of Technology, and the need of the Banaras Hindu University regaining its former position.

The Vice-Chancellor informed him that the Executive Council had decided to constitute an Institute of Technology by amalgamating its three technical institutions within the framework of the Banaras Hindu University. The Vice-Chancellor further informed the Union Education Minister that the details for the governance of the Institute were being worked out by a Committee. The University was keen that the proposed Institute should be given the same status and other facilities and privileges as were being given to the Indian Institutes of Technology.

The Committee appointed by the Executive Council (mentioned in preceding pages) met on April 1, 1968. It favoured creation of an Institute of Technology within the framework of the Banaras Hindu University Act and recommended the framing of a new Statute. Broadly speaking, the proposal was that the then existing colleges of engineering, technology and mining and metallurgy be integrated to form the Institute of Technology and should comprise all the then existing departments in those colleges and such other departments which may be established. The final proposal was that the two faculties of engineering and technology be merged to constitute one faculty of technology and the Director of the Institute become the *ex officio* Dean of the Faculty of Technology. The Director was to be an officer of the University and a member of the University Court, Executive Council, Academic Council, Finance Committee as well as the Selection Committees for the Institute of Technology. He was to draw such salary as are drawn by the Directors of the Indian Institutes of Technology, and would have exercised such powers as the Vice-Chancellor and the Executive Council may delegate to him. The Committee recommended to the Executive Council a new Statute on the above lines. The Committee also recommended to the Executive Council :

"One of the essential conditions for the creation of the Institute would be to obtain the concurrence of the Ministry of Education that the new Institute shall receive all the privileges of grants and facilities as are sanctioned by the Central Government for the development of the Indian Institutes of Technology in the country."

On April 1, 1968 the Faculty of Engineering considered the Resolution No. 434 of March 2, 1968 of the Executive Council relating to the merger of the Faculties of Engineering and Technology into a Institute of Technology. The Faculty welcomed this proposal and authorised the Dean to implement the following suggestions :

- (1) "The Faculties of Technology and Engineering be merged into a single Faculty of Technology.
- (2) The Dean, designate of the new Faculty of Technology be nominated as Officiating Director (or Planning Officer) of the Institute of Technology

- (3) A Planning Committee consisting of all members of the new Faculty of Engineering be constituted with an officiating Director (or Planning Officer) as Chairman to consider all organisational and administrative problems concerning the Institute of Technology.
- (4) The aforesaid Planning Committee be authorised to bring about as much uniformity as possible in the admission procedures, curricula and ordinances for examination with effect from the 1968-69 academic session.”

The recommendations of the Committee appointed by the Executive Council vide Resolution No. 333 of December 2, 1967 were placed before the Executive Council on April 3, 1968. The Executive Council resolved to refer the report of the Committee to the Academic Council.

The Faculty of Technology considered the above recommendations on April 4, 1968. It resolved to accept the merger of the three technical colleges in an Institute of Technology. It also accepted the merger of the two faculties, viz., Faculties of Technology and Engineering.

The Academic Council* at its meeting held on April 27, 1968 considered the aforesaid recommendations of the Faculties of Engineering and Technology. The relevant resolutions of the Academic Council are quoted below :

Academic Council Resol. No. 53 dt. 27-4-1968

“Considered the recommendations of the Faculty of Engineering dated 1st April, 1968.

Resolved that it be recommended to the Executive Council that—

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- (5) As recommended by the Faculty of Engineering vide resolution No. 13—
 - (i) Under the provision of Section 17(1)(g) of the BHU amendment Act, 1966 the Colleges of Engineering, Technology and Mining and Metallurgy be merged to form the Institute of

* Practically all University Acts provide that structural changes of an academic nature have to be effected by the Executive Council only on the recommendations of the Academic Council.

Technology.

- (ii) The Faculties of Engineering and Technology be merged into a single Faculty of Technology and the Dean designated of the new Faculty be nominated as Director of the Institute of Technology.

Academic Council Resol. No. 55 dt. 27-4-1968

"Considered the recommendations of the Faculty of Technology dated 4-4-1968 and 23-4-1968 respectively.

Resolved that it be recommended to the Executive Council that—

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Resolved further that—

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- (3) Under the provision of section 17(1)(g) of the B.H.U. amendment Act 1966, the three technical colleges, viz., Colleges of Engineering, Technology and Mining and Metallurgy be merged to form the Institute of Technology.
- (4) The two Faculties of Engineering and Technology be merged to form the Faculty of Technology."

The Academic Council vide item No. 30 of the Supplementary Agenda (for its meeting of April 27, 1968) also considered the proposal of the Committee appointed by the Executive Council vide Resolution No. 333 of December 2, 1967.

The following note placed before the Academic Council, for the first time, spelled out the Ordinances concerning the Director of the Institute of Technology :

- (iii) Since the post of the Director of the Institute of Technology will be a teaching-cum-administrative post, the Academic Council may create this post and recommend the Ordinances given below for acceptance by the Executive Council :
 - (1) The Director shall be a whole time Academic and Administrative Officer of the Institute of Technology and shall be placed in the same grade as in I.I.Ts., viz., Rs. 2000-100-2500.
 - (2) He will be provided with free furnished accommodation

in the University Campus."

Resolution No. 66 of the Academic Council dated 27.4.68 is quoted below :

"Considered the recommendations of the Committee (appointed by the Executive Council vide Resolution No. 333 dated 2-12-1967) regarding establishment of an Institute of Technology at the Banaras Hindu University.

Resolved that it is recommended to the Executive Council that—

- (1) the report of the Committee be accepted with the proviso that the clauses 5 and 7* be reconsidered by the V.C.
- (2) the Vice-Chancellor be authorised to make such changes as may be found necessary after discussion with the Government of India; and
- (3) the post of a Director in the grade of Rs. 2000-100-2500 be created. The Director be also provided with free furnished accommodation in the University Campus.
- (4) Under the provision of section 17(1) (g) of the Act and Statute 25(A), the following Statutes be framed regarding the Institute of Technology.

Proposed Statute 25(A)

- (1) The existing technical colleges of the University namely, Colleges of Engineering, Technology and Mining and Metallurgy be integrated to form the Institute of Technology, Banaras Hindu University.
- (2) The Institute of Technology shall have the following Departments :
 - (i) Department of Mechanical Engineering
 - (ii) Department of Electrical Engineering
 - (iii) Department of Civil and Municipal Engineering
 - (iv) Department of Mining
 - (v) Department of Metallurgy
 - (vi) Department of Chemical Engineering and Technology
 - (vii) Department of Silicate Technology
 - (viii) Department of Pharmaceutics

*These related to the Director being *ex officio* Dean of the Faculty and members of various University bodies. Presumably the hesitation was that this would make the Director too powerful.

and such other departments as may be created in future in accordance with the procedure laid down for such creation.

- (3) The Institute of Technology, Banaras Hindu University shall have a Director who shall be appointed by the Executive Council. The Director shall be the chief Executive and academic officer of the Institute of Technology and shall be responsible for the administration, organisation of teaching and research and maintenance of discipline.
- (4) The two faculties of engineering and technology be merged to form one Faculty of Technology.
- (5) Notwithstanding anything to the contrary contained under Statute 9(1) governing the appointments of Deans in other Faculties of the University, the Director of the Institute of Technology shall be *ex officio* Dean of the Faculty of Technology. } To be considered by the Vice-Chancellor.
- (6) Pending the framing of new Statutes and Ordinances governing the Institute of Technology, the existing Statutes and Ordinances save as herein provided shall apply to the Institute of Technology.
- (7) The Director of the Institute of Technology shall be an Officer of the University under Section 6(j) of BHU Amendment Act 1966 and shall be a member of the University Court, Executive Council, Academic Council, Finance Committee as well as of the Selection Committees of the Institute of Technology and consequential changes be made in other related statutes as proposed in Appendix 1. } To be reconsidered by the Vice-Chancellor.
- (8) Wherever in the existing statutes and ordinances of the Banaras Hindu University mention has been made about Faculties of Engineering and Technology or about Engineering, Technology and Mining and Metallurgy Colleges, these be changed to Faculty of Technology or the Institute of Technology as the case may be.
- (9) Statute 10(1) relating to the constitution of the Court

be amended as follows :

'Add Sub-clause (viii) (a) Director of Institute of Technology'.

(10) The following amendments and additions be made to Statute 14(1) governing the membership of the Executive Council :

- (1) Statute 14(1)(ii) (Group II) the names of Faculty of Technology and Faculty of Engineering be deleted, and be replaced by Faculty of Technology and the sub-clause be renumbered as follows :
- (a) Faculty of Science
 - (b) Faculty of Agriculture
 - (c) Faculty of Medical Sciences
 - (d) Faculty of Technology

Add a new sub-clause (ix)—“Director, Institute of Technology” under Statute 14(1).

(11) Statute 17(1) relating to the membership of the Academic Council be amended as follows :

Sub-clause (vii-a)—Director of Institute of Technology.

(12) Statute 19(1) relating to the membership of the Standing Committee of the Academic Council be amended as follows :

Add Sub-clause (vi) to Statute 19(1)—(vi) “Director, Institute of Technology”.

(13) Statute 21(1) governing the membership of the Finance Committee be amended as follows :

Add Sub-clause (iv) under Statute 21—“Director, Institute of Technology.”

(14) Statute 27(1) relating to the membership of the Selection Committee.

In the tabular statement under Statute 27(1) add the following clause :

(1)	(2)
Appointment of Lecturers, Readers and Professors in the Institute of Technology	The Director, Institute of Technology shall be a member of the Selection Committee, in addition to the members given below.

On April 28, 1968 the Academic Council Resolution No. 66 was placed on the table at the meeting of the Executive Council as part of the supplementary agenda for its consideration.

The Executive Council resolved that—

E.C. Resol. No. 536 dt. 28.4.1968.

- "(a) the recommendations of the Academic Council vide resolution No. 66 dated 27.4.1968 be accepted.
- (b) the Vice-Chancellor be authorised to negotiate the whole matter regarding the establishment of the Institute of Technology with the Government of India;
- (c) the post of a Director in the grade of Rs. 2000-100-2500 be created. The Director be provided with free furnished accommodation in the University Campus.

The Executive Council further resolved that Dr. Gopal Tripathi be appointed as Director of the Institute of Technology with effect from May 1, 1968 on a salary of Rs. 2000 p.m. in the grade of Rs. 2000-100-2500."

It may be noted that despite the fact that the Academic Council had reservations on clauses 5-7 of the proposed statute 25(A) and the Executive Council accepted the said reservations the Statute *when it was finally proposed did not at all refer to these reservations.**

On the 29th/30th of April, 1968 the Vice-Chancellor Dr. A.C. Joshi wrote to Dr. T. Sen, the Union Minister for Education informing him of the decision of the Executive Council to amalgamate the three colleges of engineering, technology and mining and metallurgy to form an Institute of Technology. He also enclosed a copy of the Statutes framed by the Executive Council. Copy of this letter was also sent to Shri L.S. Chandrakant, Joint Educational Adviser, Ministry of Education.

Prof. M. Sengupta, Principal, Engineering College, who has already attained the age of 60 years on June 15, 1963 was serving on extension, and who had to finally retire from the University service on June 15, 1968, after completing the age of 65 years, was informed by the Registrar vide his letter dated April 29, 1968, to hand over the charge of his office to

*Statutes before adoption required the approval of the University Court and President of India as the Visitor of the University.

Dr. Gopal Tripathi on April 30, 1968, as the latter had to assume charge as Director of the Institute of Technology with effect from May 1, 1968.

The Registrar on the same date communicated the decision of the Executive Council to Dr. Gopal Tripathi regarding the formation of Institute of Technology and his appointment as Director thereof with effect from May 1, 1968. Dr. Tripathi was requested to take charge of the Institute and to make necessary arrangements to enable the Institute to start functioning with effect from July, 1968.

While accepting his appointment as the first Director of the Institute of Technology, Dr. Gopal Tripathi in his letter of May 1, 1968, addressed to the Vice-Chancellor, refused to accept any additional remuneration for serving as the Director of the Institute of Technology. In its meeting held on July 22, 1968, the Executive Council recorded its appreciation of the 'gesture' of Dr. Tripathi.

The events then took a different turn as was evident from the letter of May 9, 1968 from the Under Secretary, Ministry of Education to the Registrar. The letter stated—

"...Certain complaints have been received by the Union Minister of Education and the Prime Minister regarding setting up of the Institute of Technology by the Banaras Hindu University and the appointment of a Director thereof. It has been alleged that the Director has been appointed without advertisement and interview by the Selection Committee.

"It is requested that full facts of the case may be intimated to the Ministry and also whether the provision of the B.H.U. Act and Statute have been observed which set up the Institute of Technology and appointing a Director thereof.

This was followed by a reminder on May 16, 1968.

In his reply the Registrar vide his letter dated May 22, 1968 enumerated the history of the proposal for the establishment of the Institute of Technology and the decision of the Executive Council. The Registrar wrote that the provisions of the B.H.U. Act have been fully observed. He also informed that the proposed Statute and the amendments to the existing Statutes were being placed before the Court at its meeting on July 6, 1968.

The Registrar also contended that the Executive Council was competent to make direct appointment of the Director.

The Registrar further wrote that with the retirement of Prof. M. Sengupta and the deputation of Prof. M.P. Netarwala to U.A.R., Dr. Gopal Tripathi who was the seniormost Principal in the Faculties of Engineering and Technology was asked to organise the proposed Institute of Technology as a measure of urgency. He further wrote :

"...the designation of Principal has been changed to that of Director in view of the decision of the Executive Council to abolish Principalship of Colleges and to reorganise teaching and research Facultywise by abolition of constituent colleges as recommended by the Ministry vide their letter No. F. 1-20/67-U. 2 dated 27th July, 1967."

In order to understand the controversy properly it is necessary to quote the relevant provisions of the B.H.U. Act and Statutes.*

Provisions of the B.H.U. Act

"17(1) Subject to the provisions of this Act, the Statutes may provide for all or any of the following matters, namely :

- (g) the establishment, reconstitution, amalgamation, division or abolition of faculties, departments, hostels, colleges and institutions;
- (2) The Statutes in force at the commencement of the Banaras Hindu University (Amendment) Act, 1966 shall be those set out in the schedule to this Act.
- (3) *The Court may, from time to time make new or additional Statutes or may amend or repeal the Statutes in the manner hereinafter provided.*
- (4) *The Executive Council may propose to the Court the draft of any Statute and such draft shall be considered by the Court at its next meeting :*

Provided that the Executive Council shall not propose the draft or any Statutes or of any amendment of a Statute affecting the status, powers or

*Underlining by the case writer.

constitution of any existing authority of the University until such authority has been given an opportunity of expressing its opinion upon the proposal; and any opinion so expressed shall be in writing and shall be considered by the Court.

- (5) The Court may approve any such draft as is referred to in sub-section (4) and pass the Statute or reject it or return it to the Executive Council for re-consideration, either in whole or in part, together with any amendment which the Court may suggest.
- (6) Any member of the Court may propose to the Court the draft of any Statute, and the Court may either reject the proposal or refer such draft for consideration to the Executive Council which may either reject the proposal or submit the draft to the Court in such form as the Executive Council may approve.
- (7) *Every new Statute or addition to a Statute or any amendment or repeal of a Statute shall require the previous approval of the Visitor who may sanction or disallow it or remit it for further consideration."*

Provisions of the Statutes

"15. Powers of the Executive Council Subject to the provisions of the Act, these Statutes and the Ordinances, the Executive Council shall, in addition to any other powers vested in it, have the following powers, namely :

- (i) to appoint, from time to time, such Professors, Readers, Lecturers and other members of the teaching staff as may be necessary, on the recommendation of the Selection Committee constituted for the purpose, and to provide for filling temporary vacancies therein;
- (ii) to fix the emoluments and define the duties and conditions of service of Professors, Readers, Lecturers and other members of the teaching staff;

Provided that no action shall be

- taken by the Executive Council in respect of the number, the qualifications and the emoluments of teachers otherwise than after consideration of the recommendation of the Academic Council;
- (iii) to appoint the Registrar, the Dean of Students the Chief Proctor, the Librarian and other salaried officers and staff of the University and to fix their emoluments and define their duties and conditions of service;
27. Selection Committees.
- (1) (a) There shall be Selection Committees for making recommendations to the Executive Council for appointment to the posts of Professors, Readers, Lecturers, Registrar, Finance Officer and Librarian.
- (b) Every Selection Committee shall consist of the Vice-Chancellor who shall be the Chairman thereof and a person nominated by the Visitor; and, in addition, the Selection Committee for making recommendations for appointment to a post specified in column (1) of the Table on page 124 shall have as its members the persons specified in the corresponding entry in column (2) of the said Table.
- (2) The procedure to be followed by a Selection Committee in making recommendations shall be laid down in the Ordinances.
- (3) If the Executive Council is unable to accept any recommendation made by the Selection Committee, it shall record its reasons and submit the case to be Visitor for orders.

There was another enquiry from the Under Secretary, Ministry of Education on June 5, 1968 requesting for information regarding the fact that "Principals of the Technical

TABLE

(1)	(2)
Professor	(1) The Dean of the Faculty concerned; (2) The Head of the Department concerned, if he is a Professor; and (3) Three persons not connected with the University who have special knowledge of the subject with which the person to be appointed will be concerned, to be nominated by the Executive Council.
Reader, Lecturer	(1) The Dean of the Faculty concerned; (2) The Head of the Department concerned; if he is a Professor; and (3) Two persons not connected with the University who have special knowledge of the subject with which the person to be appointed will be concerned, to be nominated by the Executive Council.
Registrar, Finance Officer, Librarian	Three members of the Executive Council nominated by it. Three persons not connected with the University who have special knowledge of the subject of Library Science to be nominated by the Executive Council.

Colleges concerned, which are to be integrated, have been asked to hand over charge of their offices with effect from May 1, 1968 while their term was due to expire at some later date."

The University in the meantime went ahead with its decision to establish the Institute of Technology. An advertisement was released on June 5, 1968 in the press inviting applications for appointment "for Faculty positions in the Institute of Technology."

Similarly, on June 10/11, 1968, the Registrar enumerating the history of the establishment of the Institute of Technology and the appointment of Dr. Gopal Tripathi as the Director thereof requested the Secretary, University Grants Commission for sanctioning the post of Director in the grade of Rs. 2000-100-2500 with free furnished residence. The Registrar further wrote :

"Pending sanction of the post of Director and release of grants by the U.G.C. Dr. Gopal Tripathi who was drawing the maximum in the grade of Rs. 1600-100-1800 per month, is being given the additional amount to fit him in the grade of Rs. 2000-100-2500 from the University budget. The concurrence of the Commission may kindly be sent to the University at an early date."

The mention of "additional amount" to Dr. Tripathi was made in spite of the fact that he had refused to accept any additional remuneration.

The Registrar, however, on June 17, 1968 sent a reply to the letter of June 5, 1968, from the Under Secretary, Ministry of Education, questioning the decision of the Executive Council of April 3, 1968, to the effect that the teachers due to retire in the Summer Vacation of 1968 had been asked to hand over charge of their office. He wrote that :

- "(1) (a) Principal M. Sen Gupta of Engineering College has handed over charge of the Principalship of the Engineering College to Dr. Gopal Tripathi on 30th April, 1968 afternoon.
- (b) He has retired from the University service on 15th June, 1968. The charge of the Headship of the Department of Electrical Engineering has also been handed over to the next senior Professor, Dr. V. Chelam, Professor, Electrical Engineering on 15th June, 1968.
- (c) Principal M. Sen Gupta has also handed over charge of Dean of Faculty of Engineering to Dr. Gopal Tripathi on 15th June, 1968 afternoon.
- (d) Principal M. Sen Gupta has also handed over charge of the Industrial Training Centre attached to the Engineering College to the Director,

Institute of Technology from 15th June, 1968, afternoon.

- (2) (a) Prof. M.P. Netarwala, Principal, College of Mining and Metallurgy is on long leave. He was granted leave without pay for two years to take up his appointment as Mining Expert at the Institute of Mining and Petroleum at Suez, U.A.R. He availed of the leave from 24th September 1966 and will continue to be on leave up to 24th September, 1968. This leave was granted on the specific request of Dr. Netarwala and the Government of India.
 - (b) The Executive Council has further extended his leave without pay for a period of two years with effect from 24th September, 1968. There is therefore no question of Prof. Netarwala handing over charge of the Principalsip of the College of Mining and Metallurgy to the Director, Institute of Technology.
 - (c) Acting arrangements for the Principalsip of the College of Mining and Metallurgy were made during the leave vacancy of Dr. M.P. Netarwala. Prof. S.S. Saluja, Professor of Mining was the Acting Principal. From the date the Institute of Technology has begun to function, namely, 1st May, 1968, all matters relating to the College of Mining and Metallurgy are being looked after by Dr. Gopal Tripathi, Director, Institute of Technology.
- (3) So far as the College of Technology is concerned, Dr. Gopal Tripathi was himself the Principal of the College of Technology and has now become the Director, Institute of Technology."

It will thus be seen that Prof. M. Sengupta only handed over charge of the office of the Principal, Engineering College on April 30, 1968. He remained the Head, Department of Electrical Engineering till June 14, 1968. The record also indicates that Prof. Sengupta handed over the charge of the office of the Dean, Faculty of Engineering and of the Head, Department of Electrical Engineering to Dr. Gopal Tripathi in the forenoon of June 15, 1968.

With the meeting of the Court scheduled to be held on July 6, 1968 approaching Dr. Anand Jee, Dean, Faculty of Law and a member of the Court proposed to move certain amendments to the draft Statute 25 (A) recommended by the Executive Council (and dealing with Institute of Technology), for consideration by the Court. This meeting was, however, adjourned, without considering this matter.

The proposed amendments of Dr. Anand Jee were then considered by the Executive Council on July 22, 1968, and it resolved to constitute a Committee consisting of :

- (1) The Vice-Chancellor
- (2) Dr. M.S. Mehta
- (3) Dr. G. Pande
- (4) Dr. L.S. Chandrakant
- (5) Dr. G. Tripathi
- (6) Dr. S.S. Saluja
- (7) Prof. S.S. Gairola
- (8) Dr. Anand Jee

to look into the proposals and to send their recommendations for further consideration. However, there is nothing to show that these deliberations led to anything.

The Government of India were, apparently, not convinced by the clarifications made and arguments advanced by the University in establishing the Institute of Technology. On the other hand, they took a serious view of the matter as was made clear in the letter of July 4, 1968, from the Under Secretary, Ministry of Education to the Registrar. He wrote :

"I am directed to refer to your letter No. R/Conf-12, dated the 22nd May, 1968, and the Executive Council's resolution dated the 28th April, 1968, on the subject mentioned above and to say that it is noticed that without the proposed new Statute 25(A) having been approved by the Visitor, the University has taken action to implement the same by setting up the Institute of Technology, appointing a Director therefor, issuing advertisement for filling up various posts and making admissions to the said Institute. Section 17(7) of the Banaras Hindu University Act lays down that every new Statute or addition to a Statute or any amendment or repeal of a Statute shall require the

previous approval of the Visitor. So long as the previous sanction of the Visitor is not obtained the Statute cannot legally come into force. Consequently, all proposed Statutes are not legally in order because the new Statute has not yet been sanctioned and approved by the Visitor. Therefore, in pursuance of the proviso to sub-section 7 of Section 5 of the Banaras Hindu University Act, the President, in his capacity as the Visitor of the University, has directed that the University be called upon to show cause, within a reasonable time, why the proceedings in regard to all the actions taken by the University to implement the Statute in question and the consequential resolution to the appointment of a Council relating to the appointment of a Director of the Institute should not be annulled."

Meanwhile, in reply to the letter dated June 9/10, 1968 from the Registrar, the Secretary, University Grants Commission vide his letter dated July 9, 1968 requested the Registrar to furnish the following information :

- (a) A complete scheme indicating the setting up of the Institute of Technology at the University.
- (b) The financial implications involved in setting up of the proposed Institute *vis-a-vis* the existing expenditure incurred on the Engineering and Technology Colleges in the University separately for Plan and non-Plan.
- (c) Whether it would be legally correct to set up the Institute without having the assent of the Visitor for the proposed Statute constituting the Institute.

On August 12, 1968 the Registrar replied to the show-cause notice sent by the Under Secretary, Ministry of Education. After enumerating the steps taken by the University to promote technical education and its pioneering efforts to provide qualified personnel the Registrar stated :

"No action had been taken on the basis of the draft Statutes which are before the court and the question, therefore, of by-passing or circumventing any provision of the draft Statutes or any other Statute does not arise."

The Registrar added that "Section 17 of the Act which

relates to the making of Statutes under sub-section (1)(g)(b) provides that the Statutes may be framed for all or any of the matters enumerated therein. This directive is admittedly discretionary and not mandatory and it does not and cannot mean that no legitimate action can be taken without the Statutes and thus stultifying the working of the University....”

The Registrar also informed that the Vice-Chancellor was out of India and if any further elucidation was considered necessary by the Visitor an opportunity may be accorded.

The information desired by the Secretary, University Grants Commission in his letter dated July 9, 1968 was sent to him by the Registrar on September 12, 1968. The Registrar again gave the history of the creation of the Institute of Technology and the post of a Director therefor and informed that for the present no additional financial implications were involved. The resources of the three technical colleges have been pooled together.

The Registrar further informed that the small additional expenditure for the post of the Director held by Dr. Gopal Tripathi will be met from the resources of the University and requested that the post of the Director in the grade of Rs. 2000-100-2500, with effect from May 1, 1968, be sanctioned without delay.

On return of the Vice-Chancellor from abroad, the Registrar on October 5, 1968, again wrote to the Under Secretary, Ministry of Education that the matters, relating to the show cause notice sent by the Ministry on July 4, 1968, were further examined and that it was the considered opinion of the University that no statutory provisions had been transgressed so as to invite any action under Section 5(7) of the Banaras Hindu University Act.* The Registrar reiterated and confirmed the grounds already taken in his letter of August 12, 1968 and hoped that the Visitor would approve of the steps taken by the University.

In the meantime on the 5th/6th of October, 1968 the Banaras Hindu University Court considered the draft Statute 25(A) together with certain amendments moved by Dr. Anand Jee, Dean, Faculty of Law. The Court accepted the first four clauses

*This deals with annulment of proceedings by the Visitor.

of the draft Statute 25(A) quoted below:

- (1) The existing technical colleges of the University, namely, Colleges of Engineering, Technology and Mining & Metallurgy be integrated to form the Institute of Technology, Banaras Hindu University.
- (2) The Institute of Technology shall have the following Departments :
 - (i) Department of Mechanical Engineering,
 - (ii) Department of Electrical Engineering,
 - (iii) Department of Civil and Municipal Engineering & Technology,
 - (iv) Department of Mining,
 - (v) Department of Metallurgy,
 - (vi) Department of Chemical Engineering & Technology,
 - (vii) Department of Silicate Technology, and
 - (viii) Department of Pharmaceutics
 and such other departments as may be created in future in accordance with the procedure laid down for such creation.
- (3) The Institute of Technology, Banaras Hindu University shall have a Director who shall be the Chief Executive and Academic Officer of the Institute of Technology and shall be responsible for the administration, organisation of teaching and research and maintenance of discipline.
- (4) The two Faculties of Engineering and Technology be merged to form one Faculty of Technology.

And referred back the rest of the clauses to the Executive Council for reconsideration. This meant that while the Court approved the establishment of the Institute of Technology, it deferred decision on appointment of Dr. Gopal Tripathi as the Director and his emoluments, etc.

In the light of the above decision of the Court, the Executive Council at its meeting held on October 7, 1968 reconsidered the proposed draft Statutes 25(A). Prof. Nurul Husain a member of the Executive Council felt that before the first part of the Statutes approved by the Court was sent to the Visitor careful investigation may be made as to whether it will not involve procedural irregularities on account of which the proposal may be struck down by the Visitor. Prof. Nurul

Husain proposed that legal opinion may be taken on the following points:

- "(a) Can the University establish the Institute of Technology without amending Statutes?
- (b) If the Court has accepted a part of the Statutes proposed by the Executive Council and has not accepted the other part, is it legally sound, for the University to make a representation to the Visitor for accepting Statute 25 (A) in parts as approved by the Court?"

Pursuant to the opinion expressed by Prof. Nurul Husain, the Registrar requested Shri K.L. Misra, Advocate General U.P. for his opinion on the points raised by the former.

In the meantime, the Under Secretary, Government of India, Ministry of Education, on October 30, 1968 informed the Registrar that it was not clear whether his letter dated August 12, 1968 was to be treated as a final reply to the show cause notice. He further wrote that in case no reply was received within 15 days, the University's letter of August 12, 1968 will be treated as final reply.

In reply the Registrar on November 10, confirmed that the reply to the show cause notice was sent by him on August 12, 1968. He also sent the Statutes passed by the Court on October 5 and 6, 1968 for the approval of the Visitor. The Registrar also sent a copy of the opinion of Shri K.L. Misra, the relevant extracts of which are quoted below* :

"It can, hardly, be a matter of dispute that the creation of the post of Director and the appointment of a Director, were within the power of Executive Council. The only questions that could arise were as to whether the post could be created and a Director appointed when the Institute itself, of which he was a Director had not come into being. I am of the opinion that the Executive Council could have created the Institute, but assuming, for the purpose of this part of my opinion, that the Executive Council had not created or had not the authority to create and set up the Institute, if the Executive Council had the power of creating the

*Italicise by Case Writer.

post of Director or making an appointment to that post, it could certainly do so in anticipation of the creation of the Institute. It is true that the Director could function, as a Director of the Institute, only when it had been created *but there were, obviously many preparatory steps to be taken before the Institute could start working.* It was an obvious advantage to have the cooperation of the Director of the Institute in the preliminary steps that had to be taken for the establishment of the Institute. The creation of the post of Director and the appointment to that post cannot therefore be said to be beyond the power of the Executive Council.

The only question that could arise with regard to the appointment of a Director, and the question appears to have been raised, is as to whether appointment could be made by the Executive Council, directly, without advertising the post and without the recommendation of a Selection Committee. Statute 15(i) contemplates that the Executive Council shall appoint Professors, Readers, Lecturers and other members of the teaching staff, as may be necessary, on the recommendation of a Selection Committee constituted for the purpose. Statute 15(iii) empowers the Executive Council to appoint the Registrar, the Dean of Student Welfare, the Chief Proctor and the Librarian and other salaried officers and staff of the University and to fix their emoluments and define their duties and conditions of services. A Selection Committee is contemplated for the teaching staff. A Selection Committee is also contemplated, by Statute 4 for the Registrar and by Statute 6 for the Librarian. No Selection Committee is contemplated by the Statutes for appointments which the Executive Council has the power to make under Statute 15(iii). *The Executive Council, could therefore, appoint the Director of the Institute without the intervention of the Selection Committee.* The power to fix his remuneration and conditions of service is, expressly, conferred on the Executive Council by Statute 15(iii).

It is only when the Visitor's approval and sanction is available for the Statute that has been framed by the Executive Council that the Institute may really come into being as a legally recognized entity but it is not necessary, in law, that nothing should be done till after the actual legal recognition. Colleges and schools are created, as a matter of common knowledge and experience, the staff is recruited and even students are admitted and taught, in anticipation of recognition of a college or school. There is certainly an element of risk involved in the possibility of recognition not being granted. But, in many cases, the risk is taken. In the present case, the scheme for the creation of Institute, in its outline, had received the approval of the Government of India and, at every stage, the University authorities had taken care not only to inform but to consult the Government of India. They were justified in assuming that there would be no objection to the creation of the Institute and that, ultimately, the Statutes, creating the Institute, would receive the approval of the Visitor. It might be that the Statute framed for the purpose, might require some modification by the Visitor. But that itself was not likely to be of such a nature as to endanger the creation of the Institute itself. *The preliminary steps taken by the University were not lacking in legality.* I am of the opinion that, considering the attitude of the Government of India and the necessity arising out of the provisions of the Banaras Hindu University Act itself, the action of the authorities cannot be said to have been an imprudent action.

The other question raised is about the admission of students. I have already mentioned that a mere admission of students to an Institution which has to be recognised may involve a risk but does not involve any illegality. The University authorities were anxious, and they had the blessings of the Government of India, for an early creation of the Institute of Technology. If students had not been admitted, the working of the Institute would have been postponed by another year. *The abolition of colleges, without replacing*

them by an Institute, would have created complete confusion, particularly amongst students. The admission of students, therefore, appears to have been a prudent step in the circumstances of the present case.

What I have mentioned above would clearly indicate that the authorities of the University were not implementing any Statutes but were taking steps, which were within their powers, to facilitate and expedite the implementation of the Statutes after they received the approval of the Visitor. I have already mentioned that the University would have had no authority to implement the Statutes till their approval by the Visitor. But if acting, under other powers, they took steps in anticipation of the approval of the Statutes, they cannot be said to be acting against the provisions of the Act, the Stautes and the Ordinances.

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...As I have mentioned above, the first four Statutes provide a complete structure of the Institute of Technology. I am of the opinion that the Court was justified and its action does not suffer from any illegality when it passed the first four Statutes and sent Statutes 5 to 9 of 25(A), for reconsideration by the Executive Council. *The University authorities would be justified in sending the first four Statutes, in Schedule 25(A) for the approval of the Visitor.”*

In the meanwhile the Executive Council at its meeting held on November 16, 1968 again considered certain matters regarding the establishment of the Institute of Technology. The Executive Council Resolution No. 230 dated November 16, 1968 is quoted below :

“(1) The Vice-Chancellor placed before the Executive Council a note of the Ministry of Education, Government of India, giving a list of cases/complaints and replies sent by the Vice-chancellor on each of these items; alongwith this were considered the replies sent to the Ministry of Education on the show cause notice relating to the Institute of Technology on the basis of the opinion expressed by the Advocate General, Uttar Pradesh.”

Resolved that the replies sent by the Vice-Chancellor to the Government of India, Ministry of Education, be noted, but

the following additional observation be conveyed to the Ministry of Education :

"The Executive Council took various steps to set up the Institute of Technology as expeditiously as possible within the framework of the University Act and Statutes with the idea that the Government was very keen about it and that the early setting up of the Institute would enable it to get generous foreign assistance for raising the quality of technical education in the University. If the Government feels differently now, the University is prepared to reconsider its decision."

The records, however, do not indicate that the above resolution was communicated to the Government of India.

Following the above decision of the Executive Council, Shri Hriday Narain Singh, a member of the Executive Council, moved the following resolution:

"University to go slow with expansion scheme—establishment of Institute of Technology to follow framing Statutes and their approval by the Visitor."

The Executive Council at its meeting held on December 14, 1968, however, postponed consideration of the above resolution.

On December 18, 1968 the Registrar again communicated to the Under Secretary, Government of India, Ministry of Education, the Statutes approved by the Court for being placed before the Visitor for his approval. The Registrar followed it up by a telegram on January 20, 1969 requesting the Under Secretary, Ministry of Education for an early decision by the Visitor. In his letter dated January 24, 1969, the latter informed the Registrar that the matter was receiving attention.

A further spurt in activity is indicated by the letter dated February 17, 1969 from Dr. Gopal Tripathi, Director, Institute of Technology to the Registrar, indicating that as per their telephonic conversation of February 14, 1969 he went to Allahabad to seek the opinion of the Advocate General, Uttar Pradesh, on Clause (3) of the Statute 25(A) already approved by the Court. Dr. Tripathi enclosed the opinion of the Advocate General alongwith his letter.

The relevant clause is quoted below:

"(3) The Institute of Technology, Banaras Hindu University shall have a Director who shall be appointed by the

Executive Council. The Director shall be the Chief Executive and Academic Officer of the Institute of Technology and shall be responsible for the administration, organisation of teaching and research and maintenance of discipline."

The Advocate General in his opinion dated February 15, 1972 stated that—

"A question has arisen, as to whether the Director of the Institute of Technology could validly, be given powers, similar in terms to those given to the Vice-Chancellor and as to whether the two powers, given to two different persons, would not bring about a conflict."

The 'conflict' was feared because of Section 7C(1) of the Banaras Hindu University Act quoted below :

"The Vice-Chancellor, who shall be the principal executive and academic officer of the University, shall take rank next to the Chancellor and shall exercise general supervision and control over the affairs of the University and give effect to the decision of the authorities."

The Advocate General opined that there was no conflict or any impropriety in the proposed Statute 25(A)3.

The Registrar on February 17, 1969, transmitted the opinion of the Advocate General to the Under Secretary, Ministry of Education, requesting once again to place the Statutes before the Visitor.

In the meantime on 'March 13, 1969, the Secretary, University Grants Commission, sent to the University the report of the Visiting Committee alongwith sanction of funds amounting to Rs. 228.87 lakhs for the IV Plan for the development of the Engineering Education and Research. Among the recommendations made by the Visiting Committee two important ones, which have a bearing on this case were :

- (i) The three Technical Colleges have been merged by the Banaras Hindu University into one Institute and highest priority should be given to consolidation of the departments/courses before taking up any expansion.
- (ii) The decision of the Banaras Hindu University to bring together the different Departments in the three erst-

while college is a step in the right direction.

The recommendations of the Visiting Committee were considered by the University Grants Commission on February 5, 1969 at New Delhi. The Committee agreed with the principle of integrating the Departments under as Institute of Technology and observed that this would lead to more effective utilisation of the available resources. The proposed Institute would, however, need additional resources which might be examined separately.

It may be noted that the University's own thinking in this matter was undergoing a transformation. On March 28, 1969 the Executive Council took up consideration of the resolution earlier moved by Shri Hriday Narain Singh.

E.C. Resolution No. 479 Dated 28-3-1969

Considered the following proposal of Shri Hriday Narain Singh, member of the Executive Council :

"University to go slow with expansion scheme. Establishment of Institute of Technology to follow framing of Statutes and their approval by the Visitor."

and resolved that

- (1) The Institute of Technology be not established and the Faculties of Engineering and Technology be administered by their respective Deans;
- (2) the post of Director of the Institute of Technology shall cease to exist;
- (3) This decision be implemented from April 1, 1969;
- (4) decisions of the Executive Council which are contrary to or inconsistent with this Resolution be deemed to have been superseded by the latter;
- (5) The Vice-Chancellor be requested to appoint a Committee to work out the pattern of Technological education in the University and its coordination with the Faculty of Science.

In pursuance of the above decision of the Executive Council, the Registrar issued the following circular on March 31, 1969 :

"The Executive Council as its meeting held on March 28, 1969 resolved that—

- (1) the Institute of Technology be not established and the

Faculties of Engineering and Technology be administered by their respective Deans;

- (2) the post of the Director of the Institute of Technology shall cease to exist;
- (3) this decision be implemented from April 1, 1969.”

On the same date, Shri Anjani Kumar Misra and Shri Dhirendra Kumar Pandey, two students of erstwhile Institute of Technology, filed a suit in the Court of the Civil Judge, Varanasi, praying for permanent injunction against the University not to implement or execute and put in operation, the above mentioned resolution of the Executive Council. An injunction order was issued by the Civil Judge on March 31, 1969 asking that “*Status quo* be maintained in the meantime.” Following this development the Registrar on April 3, 1969 issued letters to all concerned for maintaining *status quo* which existed on March 3, 1969.

Mention may here be made of a Committee appointed by the President in capacity of the Visitor of the University under the Chairmanship of Dr. P.B. Gajendragadker on December 31, 1968 “to enquire into the recent state of unrest and agitation in the University and to make such recommendations as may be considered necessary or expedient for remedying the situation and for improving the general tone of discipline and law and order in the University.” This Committee submitted its report on July 10, 1969. In the course of its report the Committee also made a few observations on the establishment of the Institute of Technology. It began by saying :

“Another instance of an irregular procedure adopted by the University has reference to the forming of an Institute of Technology in the Banaras Hindu University on the pattern of the Indian Institutes of Technology and the appointment of the Director of the said Institute.”

After dealing exhaustively with the procedure adopted by the University in forming the Institute of Technology, the Committee concluded that :

“We may add that as a result of a suit filed by one of the students of the Institute of Technology, an injunction has been issued by a Civil Court of Varanasi and the implementation of this resolution had been stalled. In his letter addressed to the Chairman on June 3, 1969, the Vice-

Chancellor has observed that we may try to find out whether the suit has been filed really at the initiative of the student or there is somebody else behind the student. A proper investigation of this case may help to clear up one of the chronic maladies of this University. We do not think it would be possible for us to make any investigation of the kind suggested by the Vice-Chancellor. The only comment we would like to make is that having considered the relevant facts, *prima facie*, we are unable to appreciate the procedure adopted by the University and the haste in bringing this Institute into existence and later on closing it. It is significant that the appointment of the Director of this Institute was made apparently without following the procedure prescribed by the relevant Statutes. It is very unfortunate that an important subject like this should have been treated in this casual manner. Some witnesses suggested that apart from the legal aspect of the problem, the unusual manner in which the Institute was started and in which it was decided to close it shows that personal considerations may have played a major role; first, it might have been intended to help the appointment of the Director and then to put an end to the said appointment. They expressed their surprise and resentment in this matter in no uncertain terms. However, since the matter is *sub judice*, we will refrain from expressing any opinion on this issue."

Changes of far-reaching importance took place following the report of the Gajendragadkar Committee. The Vice-Chancellor, late Dr. A.C. Joshi resigned. The Parliament passed the B.H.U. (Amendment) Act, 1969, in August 1969. This Act took care of the recommendations of the Gajendragadkar Committee which needed immediate implementation.

During the discussions of the B.H.U. (Amendment) Bill in the Parliament a distinct shift in the attitude of the Government *vis-a-vis* the Institute of Technology was noticed from the statement of the Union Education Minister Dr. V.K.R.V. Rao to the Parliament :

"There has been a lot of misunderstanding and also apprehension about the Institute of Technology. There has been a feeling that this Institute might be closed. This Institute was started in the University; then the Vice-

Chancellor and the Executive Council passed a resolution that it should be stopped. I have already told the House that this Institute will continue. It is true that the Statute has got to be amended. The Statute which they have sent is not in perfect order. The Statute has got to be changed. The moment the Bill is passed and the new nominated Executive Council comes into existence, they have the power to put forward proposals for amending this Statute, and we would suggest to them what amendments should be made. But this Institute will continue and there will be no question of the Institute being closed."

Dr. K.L. Shrimali, the new Vice-Chancellor, took over on November 1, 1969. The (Amendment) Act of 1969 besides making many important changes, had brought about a nominated Executive Council and Court. The Court was reduced to the status of an advisory body with no powers whatsoever. The composition of the new nominated Executive Council also changed.

The first communication which the University received from the Ministry of Education after Dr. Shrimali took over, reflected the new thinking of the Government regarding the Institute of Technology. In his letter dated December 12, 1969, the Under Secretary, Ministry of Education, wrote that "the new Statute 25(A) regarding the establishment of the Institute of Technology in the Banaras Hindu University which was submitted for Visitor's approval, has been considered by the Visitor in all its aspects. Having regard to the decision in the meeting held on the March 24, 1969, between the Chairman, University Grants Commission, the Vice-Chancellor, Banaras Hindu University, and other officers of the Ministry of Education and Youth Services and of the Commission, the Visitor has, in exercise of powers conferred under Section 17(4) of the University Act, decided to remit the aforesaid statutes to the University for further consideration in the light of the discussion that took place in meeting."

It was for the first time that the University had official knowledge of the high level discussions that took place in the University Grants Commission as early as on March 24, 1969. The summary of the discussions as communicated by the

Ministry of Education indicated that :

"there was a general discussion about the proposal of the University with regard to the reorganisation of engineering and technological education at the University. It was felt that the existing facilities at the University needed to be strengthened; also there should be a much closer association than at present between the several engineering and technological departments of the existing two faculties of engineering and technology. It was generally agreed that the present engineering and technological departments of the University should be brought together and made to function in an integrated and coordinated manner as a composite unit within the broad framework of the University. It was recognised that the facilities of the University departments of Science should be fully utilised for the reorganisation and development of technical education. The Vice-Chancellor said that the University was already seized of this matter and would welcome any suggestions in this connection.

After discussion it was generally agreed that the proposed reorganisation should take into account the special advantages and features of the University, in particular the existence of well-established departments in Science and Social Science subjects. It was suggested that the University may explore the possibility of providing engineering and technological courses with a B.Sc. degree as the entry qualification instead of the present courses which include a considerable amount of work which could perhaps be better done in the Science and Mathematics departments of the University. Such an arrangement would not only widen the base of selection of students for engineering and technical courses, but it is also likely to lead to a more effective concentration of the available resources in the faculties of engineering and technology for purposes of technological education and research.

It was agreed that the University, after examining the matter, would submit a fresh proposal for reorganisation of engineering and technological education within the broad framework of the University structure, taking into account the resources likely to be available for the purpose. In view of

this it was not necessary at this stage to take any further action with regard to the Statutes sent by the University."

It will be observed that the University Grants Commission never apprised the University of these discussions, not even when they communicated it to the Ministry of Education.

Following the decision of the Visitor to remit the Statutes for consideration by the University, fresh thinking started in the University. The Registrar on December 27, 1969, sent a draft Statute to Dr. Gopal Tripathi, who was continuing as Director by virtue of the Court's stay order. The Statute proposed by the Registrar was, broadly speaking, on the same lines as was earlier approved by the Executive Council on April 28, 1968, with the addition that the Dean, Faculty of Engineering and Technology "shall be the Dy. Director of the Institute of Technology."

Dr. Gopal Tripathi sent his own proposals to the Registrar on January 2, 1970 which stipulated that "the Director shall be responsible for organisation of teaching and research in the Institute of Technology, and shall be responsible for the due observance of the Statutes, Ordinances and Regulations relating to the Institute." This proposal had no mention of a Dy. Director in the Institute.

While consultations were thus going on in the University for a new Statute 25(A), the Registrar on March 4, 1970 wrote to the Secretary, Ministry of Education requesting that the Ministry in consultation with the University Grants Commission may send a Visiting Committee which may examine the lines on which the Institute had to be developed. This was followed by a telegraphic reminder to the Ministry on March 14, 1970.

In reply Shri G.K. Chandiramani, Educational Adviser, Ministry of Education on April 6, 1970 wrote to the Vice-Chancellor and referred to the discussions that took place on March 24, 1969 between the Chairman, University Grants Commission, the Vice-Chancellor, Banaras Hindu University and the officers of the Ministry and requested him to send the revised proposals for the amendment of the Statute. Shri Chandiramani also informed the Vice-Chancellor that the requirements of the Institute would be determined by the University Grants Commission 'in the normal way' as soon as

the amendments to the Statute were approved by the Visitor.

The Vice-Chancellor replied to this letter on April 9, 1970. He wrote :

"As I told you on the telephone, I have discussed this matter further with the Chairman, University Grants Commission, and we both agreed that it would be desirable to have a Visiting Committee to advise the University with regard to the future pattern of the Institute of Technology before the Statutes are drafted. Statutes can only be drafted when we are clear about the type of the institution which has to emerge. In order that the mistake made in the past may not be repeated, I would request you to send the Joint Committee of the Ministry of Education and the University Grants Commission to advise the University about this matter."

Separately, the University came to know that a Committee had been appointed by the University Grants Commission to examine the question of reorganisation of the Faculties of Engineering and Technology at the Banaras Hindu University and to assess the needs for their development. This led to some apprehensions about the scope of the Committee as a result of which the Vice-Chancellor on June 24, 1970, wrote to Dr. Kothari, Chairman, University Grants Commission.

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"I think, I should draw your attention to the fact that the Ministry of Education has been reminding us to send the revised proposals for the amendment of the Statute for the establishment of the Institute. The Ministry of Education had also given a categorical assurance to the Parliament that the Institute has come to stay and there is no question of winding it up. Under these circumstances I shall be grateful if you will kindly make it clear to the Committee that the question of establishment of the Institute is not under examination. I expect the Committee will advise us the lines on which the Institute is to develop."

On the suggestion of the University Grants Commission, July 27 and 28, 1970 were fixed for the visit of the Visiting Committee. The visit was, however, postponed by the University Grants Commission by a telegram July 20, 1970.

It was in the background of the rapidly changing circumstances that the new Executive Council under the chairmanship of the Vice-Chancellor Dr. Shrimali, made a *de novo* consideration of the matters relating to the Institute of Technology at its meeting held on July 26, 1970. Resolution No. 160 dated July 26, 1970 of the Executive Council is quoted below :

"Considered the proposals relating to :

- (i) the Institute of Technology and
- (ii) the Institute of Medical Sciences*

Resolved that—

- (i) In supersession of the Executive Council Resolution No. 479 dated March 28/29, 1969, the Institute of Technology be continued to function as hereto before.
- (ii) The Institute of Medical Sciences be established by integrating the college of Medical Sciences and the Post-graduate Institute of Indian Medicine.
- (iii) Necessary steps be taken to frame the Statutes relating to the two Institutes within the framework of the B.H.U. Act and Statutes and to make Ordinances defining the powers, duties and functions of the Director and Deans."

On August 3, 1970 Dr. D.S. Kothari, Chairman, University Grants Commission, Dr. K.L. Shrimali, Vice-Chancellor, Banaras Hindu University, Shri L.S. Chandrakant, Joint Educational Adviser, Ministry of Education and Shri R.K. Chhabra, Secretary, University Grants Commission met in Delhi and discussed matters relating to the Institute of Technology.

In this meeting it was found necessary for the University to have a well-integrated, forward looking and active Institute of Technology. The action taken by the University to integrate the present colleges into an Institute of Technology was considered appropriate. It was also felt that :

"It was necessary to prepare a detailed project report with care and deliberation. For this purpose, a Project Officer should be appointed on suitable terms. The Project

*A proposal to establish an Institute of Medical Sciences on the lines of the Institute of Technology also gathered momentum soon after Dr. Shrimali took over as the Vice-Chancellor. The establishment of both the Institutes was taken up simultaneously by the Executive Council.

Officer should discuss with the faculty members, study the functioning and resources of the existing colleges, and then prepare a detailed report on the development of the Institute of Technology along correct lines. The Project Officer should have the fullest cooperation from the authorities of the University and the members of the faculty of the Colleges of Technology, Engineering and Mining & Metallurgy. The services of a suitable specialist should be obtained on deputation or loan for this post of Project Officer. An Advisory Committee of 4/5 experts may be constituted by the University to advise and guide the Project Officer in drawing up the detailed project report.”

Following the decision of the Executive Council on July 26, 1970 to continue the Institute of Technology. Shri Anjani Kumar withdrew the suit filed by him and another student on March 31, 1969.

At its meeting held on September 26, 1970 the Executive Council reconsidered its earlier resolution No. 160 dated July 26, 1970. The resolution was substantially ‘corrected’. The corrected resolution No. 163 dated September 26, 1970 read as follows :

“Considered the proposals relating to—

- (i) the Institute of Technology and
- (ii) the Institute of Medical Sciences.

(i) In supersession of the Executive Council Resolution No. 479 dated March 28/29, 1969, the Executive Council agree in principle to creation of the Institute of Technology and it be continued to function as heretobefore.

(ii) The Institute of Medical Sciences be established in principle by integrating the College of Medical Sciences and the post graduate Institute of Indian Medicine.

(iii) Necessary steps be taken to frame the Statutes relating to the two Institutes within the framework of the Banaras Hindu University Act and Statutes and to make Ordinances defining the powers, duties and functions of the Director and Dean.

(iv) Appointment of Director be made on a tenure basis for a period of three years on an additional

allowance but no separate grade be given."

Clause (iv) of the above resolution signified the thinking of the Executive Council regarding the terms, conditions and tenure of the Director, Institute of Technology.

Pursuant to the above resolution of the Executive Council, Dr. Gopal Tripathi, the *de facto** Director of the Institute of Technology wrote to the Vice-Chancellor on October 15, 1970 :

"The Director's post is an administrative one and directly concerned with the building up and running of the Institute administratively and academically. In such a case, it is my opinion that a change of the Director every three years would not be conducive to the development growth and smooth running of the Institute. In the IITs all over the country the post of the Director is permanent whereas in some of the IITs, Headship and Deanship go by rotation.

So far as I am concerned, since I was appointed Director in 1968 I presume that any such new Statutes and Ordinances and the resolution of the Executive Council making the term of the Director's office of a limited period would not apply to me nor any Statute, Ordinances and Executive Council resolution regarding the reduction in the emoluments of the Office should apply to me."

The Executive Council at its meeting held on November 21, 1970 had a further re-thinking on its earlier resolution relating to the Institute of Technology as a result of which the Executive Council made further corrections in its resolution passed on September 26, 1970. Resolution No. 200 dated November 21, 1970 incorporating the corrections is quoted below :

E.C. Resolution No. 200 date 21-11-1970.

"Resolved that the Minutes of the meeting of the Executive Council held on September 26 and 27, 1970 be confirmed subject to the following corrections :

*The word '*de facto*' is used because the '*de jure*' position of Dr. Gopal Tripathi was even now, not entirely beyond doubt. The resolutions appointing him earlier had been rescinded subsequently and the stay order of the Court which prevented the rescission from becoming operative, automatically got vacated when the suit was withdrawn.

(i) *Ex. Council Resol. No. 163 (iv) dt. September 26/27, 1970.*

Paras (i) and (ii) of the Executive Council Resol. No. 169 dated July 26, 1970 be further corrected to read as follows :

"Considered the proposal relating to —

(i) the Institute of Technology and

(ii) the Institute of Medical Sciences Resolved that —

(i) the Executive Council agreed in principle to the creation of the Institute of Technology and the Institute of Medical Sciences.

(ii) Necessary steps be taken to frame the Statutes relating to the two Institutes within the framework of the B.H.U. Act and Statutes and to make Ordinances defining the powers, duties and functions of the Director and Dean.

(iii) Appointment of Director be made on a tenure basis for a period of three years on an additional allowance but no separate grade be given."

It is significant to observe that the Executive Council modified its decision of September 26, 1970 stating that the Institute of Technology be continued to function as heretofore. This made the legal position of the Institute of Technology even more confusing.

The Executive Council on the same date also framed Statutes and resolved to submit the same to Visitor for approval. The new Statute 25(A) proposed by the Executive Council relating to the Institute of Technology and that of the Institute of Medical Sciences had only the following three clauses :

(i) The Institute of Technology be established under the aegis of the B.H.U. Act and Statutes by integrating the Departments and the Faculties of Engineering and Technology.

(ii) The Institute of Medical Sciences be established under the aegis of the B.H.U. Act and Statutes by integrating the departments in the College of Medical Sciences and the Post-graduate Institute of Indian Medicine under a Director.

(iii) The powers, duties and conditions of service and the mode of appointment of Directors shall be prescribed

by the Ordinances.

The Executive Council also proposed consequential changes in the existing Statutes.

The Vice-Chancellor then informally discussed these Statutes with the Chairman, University Grants Commission at Delhi, and the latter vide his letter dated November 26, 1970 proposed that the Statute 25(A)(iii) may be modified as follows :

"Director shall be a Professor in the Faculty. The powers, duties and terms and conditions of services of the Director shall be prescribed by the Ordinances including such allowances as may be payable to him to carry on the duties of the Director."

The Vice-Chancellor discussed the proposal of the Chairman, University Grants Commission, with Dr. Gopal Tripathi and the latter vide his letter of December 5, 1970 to the Vice-Chancellor indicated that the Statutes framed by the University were comprehensive, and Dr. Kothari's suggestions could be considered and suitably incorporated in the proposed Ordinances regarding mode of appointment, powers, duties, terms and conditions of services of the Director. Dr. Tripathi was of the opinion that the Statutes as framed by the Executive Council be sent to the Ministry of Education for approval.

On December 24, 1970 the Vice-Chancellor transmitted the Statutes (framed by the Executive Council on November 21, 1970) along with the suggestion of Dr. Kothari to Shri G.K. Chandiramani, Educational Adviser in the Ministry of Education, and asked if he himself had any suggestions to make.

On the January 13, 1971 Shri G.K. Chandiramani, replied to the Vice-Chancellor stating that he had discussed the matter with the Chairman of the University Grants Commission. Their joint suggestion was that 25(A)(iii) may be reworded as follows :

"Statute 25(A)(iii)/ The Director shall be appointed by the Executive Council on the recommendation of the Vice-Chancellor from amongst the Professors in the Institute. The powers, duties and conditions of service including the duration of appointment of the Director shall be prescribed by the Ordinances."

The Executive Council vide its Resolution No. 290 dated January 15, 1971, amended the Statute 25(A)(iii) accordingly.

The Vice-Chancellor then transmitted the revised draft of the Statute to Shri Chandiramani, requesting him that the same may be placed before the Visitor for his approval. Likewise the Registrar, in his letter of January 23, 1972 to the Secretary, Ministry of Education, also made a similar request.

On receipt of the draft statutes the Ministry of Education referred the Statutes to the Ministry of Law for their opinion. This is indicated by the letter dated March 5, 1971, from Shri Chandiramani to the Vice-Chancellor, forwarding the draft of amendments proposed by the Ministry of Law which retained the substance of the amendments proposed by the Executive Council.

The draft amendments suggested by the Ministry of Law were considered by the Executive Council on March 6, 1971. The Executive Council approved of the same and reframed the Statutes accordingly. Resolution No. 311 dated March 6, 1971 of the Executive Council is quoted below :

"Considered the letter No. F. 1-3/71-U.2 dated March 4, 1971 from the Ministry of Education and Youth Services regarding the Statutes relating to the Institute of Technology and the Institute of Medical Sciences.

Resolved that in supersession of the Executive Council Resolution No. 220 dated November 21, 1970 and No. 290 dated January 15, 1971, the Statutes relating to the Institute of Technology and the Institute of Medical Sciences be made as follows :

After Statute 3, the following Statute shall be inserted, namely —

Statute 3A:

Directors : (1) There shall be a Director each for the Institute of Technology and the Institute of Medical Sciences who shall be officers of the University.

(2) A Director shall be appointed by the Executive Council on the recommendation of the Vice-Chancellor from amongst the Professors in the Institute.

(3) The powers, duties and conditions of service of a Director shall be prescribed by the Ordinances."

The Executive Council also made consequential amendments to the existing Statutes incorporating the amendments suggested by the Ministry of Law.

The Vice-Chancellor communicated the Statutes as finally approved by the Executive Council after incorporating the amendments suggested by the Ministry of Law, to the Ministry of Education, for approval of the Visitor under Section 17(4) of the Banaras Hindu University (Amendment) Act. A similar request was made by the Registrar in his letter of March 7, 1971, addressed to the Secretary, Ministry of Education.

Finally, the approval of the Visitor to the Statutes was communicated by the Ministry of Education vide their letter dated March 15, 1971. The Registrar accordingly issued a circular on March 1971 which heralded the formal existence of the Institute of Technology in the University.

CASE WRITER'S COMMENTS

This case adequately shows how slow is the movement of proposals in a University setting where pluralities of deliberative bodies are involved. It has to be noted that from December 2, 1967 when the Executive Council of the Banaras Hindu University considered for the first time a proposal for creating an Institute of Technology in the University to March 15, 1971 when the approval of the Visitor to the Statutes framed for this purpose by the University was received, over three years had lapsed.

It is also quite clear from the case that one man, namely, Dr. Gopal Tripathi, the Principal of the College of Technology in the Banaras Hindu University has been the prime moving force behind the proposal; it advanced or retarded in direct proportion to the then authorities being inclined favourably or adversely towards him. A principle of public administration deducible from this is that many times objective merits of issues put forth merely echo the subjective equations involved.

It has also to be noted that the replies of the Registrar of the University to the queries of Ministry of Education (starting from their letter of May 9, 1968) appear to be laboured and led to the Ministry ultimately issuing a formal show cause notice on behalf of the Visitor on July 4, 1968. These

laboured replies, taken together with the fact that undue haste was shown for the establishment of the Institute between December 1967 and April 1968, give us a glimpse of how administrative organs in the Universities can be bent to pursue certain pre-determined objectives.

It is also quite clear that the sudden shift in the University's internal thinking on the establishment of the Institute of Technology starting from November 16, 1968 must have been the result of power equations in the University getting drastically altered.

A suit filed on March 31, 1969 by two students to restrain the University from not establishing the Institute of Technology and for maintenance of the *status quo*, seems be entirely motivated from some other levels and gives us a glimpse in another face of the administrative landscape of the Universities, namely, how the students are used for furthering or retarding causes which are not their own.

The study also brings into bold relief a slight lack of co-ordination and overlapping of functions between the Ministry of Education and the University Grants Commission. Often it appears that parallel correspondence went on between the University on the one hand, and the University Grants Commission and the Ministry of Education on the other.

The importance of extra-formal consultations in resolving complicated matters is also brought out by the study; the main reason why the new Vice-Chancellor Dr. Shrimali succeeded in resolving this tangle was that, instead of resorting to protracted correspondence, he was carrying out personal consultations at various levels in the Ministry of Education and the University Grants Commission. His status as the ex-Union Minister for Education played no small part in the resolution of the tangle, because the officers of the Ministry of Education and the University Grants Commission considered his suggestions with far greater respect than they would otherwise do, in case of other Vice-Chancellors.

Management-Labour Conflict and Minimax

Suman Kumar Modwel

The General Secretary of the Roadways Karmchari Sanyukt Parishad, Uttar Pradesh, was tumbling to the floor beside the General Manager's (G.M.) desk, beaten into senselessness by the mob which was milling round, smashing the fittings in the G.M.'s office. Even as one of them approached him menacingly, a vicious looking steel pipe in his hand, the G.M. of the U.P. State Road Transport Corporation (UPSRTC) incongruously chose that moment to reflect on the manifest inadequacy of the so-called rational minimax approach in the game theory which he thought had worked well till that moment in the protracted negotiation with the union leaders.

THE UPSRTC AND PRIVATE OPERATION

The UPSRTC is one of the largest nationalised passenger road transport undertakings in the country. It has a fleet of about 5,500 buses, carries 320 million passengers annually, provides employment to about 40,000 people (next only to the U.P. State Electricity Board in size amongst the public sector enterprises in U.P.) and has a turnover of about Rs. 65 crores per annum, *i.e.*, the 900,000 passengers that travel everyday in its buses contribute about Rs. 17 lakhs to its daily income. With its headquarters at Lucknow, it has an organisational structure consisting of 12 regions spread all over the State, including the hills and all routes in its cities. Each region has an average of six to seven depots consisting of a bus station and a workshop. However, a peculiar feature of these operations, having considerable relevance to the case in question, was that only about 50 per cent of the motorable roads in U.P. were nationalised for exclusive operation by the UPSRTC. Thus there were over 7,000 buses in the private sector, which plied on the remaining non-nationalised routes on the basis of permits obtained from the Regional and State Transport Authorities. These private routes were not in any segregated

geographical part of the State but were to be found in practically every district of the State. The broad pattern was that most of the main trunk routes and about a little less than half the feeder routes were nationalised for operations by the UPSRTC and the remaining feeder routes in practically all parts of U.P. were being served by the private bus operators. Apart from this *bona fide* presence of the private operators all over the State, a more serious problem confronting the management of the UPSRTC since long, but which had assumed serious proportions of late, was the illegal plying of these private buses on the nationalised routes, depriving the UPSRTC of considerable income and causing continual tension between the UPSRTC and the private poachers. The management had no powers to police its own nationalised lanes and had to rely on the transport enforcement department, which, with its slender resources and loopholes in the working of the Motor Vehicles Act and its Rules, was unable to cope effectively with the problem. This led to a state of affairs wherein the private operators poached on the nationalised routes regularly and with impunity. Both the labour and management of the UPSRTC thus looked upon the private bus operation with acute disfavour and the former, in fact, was sharply critical of the State Government because it felt that it basically lacked the political will to tackle the problem with determination. Off and on there would be instances of skirmishes between the workers of the UPSRTC and the private bus operators.

THE ROADWAYS KARMCHARI SANYUKT PARISHAD, U.P.

The Roadways Karmchari Sanyukt Parishad U.P. (Parishad) was the biggest recognised union in the UPSRTC with a following of about 23,000 employees. Its strength registered at an earlier year was 13,000 but the union claimed a present registration of about 23,000 even though no confirmation could be obtained from the Labour Commissioner's office on this point. However, information with the management led it to believe that the claim of this union was not exaggerated. A special feature of the Parishad was that its membership and office bearers were confined to the employees of the organisation. The Parishad always drew attention to this fact, stating that,

as they did not have any political elements in their union, they, and only they, were the true representatives of the workers, having not only their welfare but the welfare of the organisation at heart. However, this did not mean that the Parishad did not resort to agitational methods in pressing for their demands. On the contrary, it was a very active and, on occasions, an unruly force amongst the workers and had organised a partially successful strike in 1974. The Parishad's office bearers were always very articulate in complaining about the inefficient and corrupt working of the management, particularly the middle level at the depots and regions. Historically, therefore, their relations with the management had never been good although they had adopted a low profile during the emergency period in 1975-76. The assessment of the present management, however, was that they were undeniably the largest cohesive force amongst the organised unions in the UPSRTC and, surprisingly, with a fairly sober top leadership, *i.e.*, the president, general secretary and most of the members of its executive council. The management was, however, not very sure of this top leadership's claim that it exercised complete control over and maintained proper discipline in the entire organisational set-up of the Parishad right down to the cells at the depot level. It was within the knowledge of management that a growing number of small incidents that had started occurring at the depot workshops and regional workshops, conflicts between labour and local management involving unruly and even abusive behaviour of the workers and stoppages of work for short periods, were inspired by their local leaders. These incidents would occur despite protestations of the top leadership of the Parishad that they would first confine themselves to peaceful negotiations and think of other alternatives only if the talks broke down. It seemed, therefore, that while the top leadership of the Parishad did exercise control to the extent of helping the management in containing these incidents, it was having its own internal problems as some of its members in the regions and depots were in favour of a showdown.

OTHER UNIONS

Apart from the Parishad, the management had recognised

two other unions, the U.P. Roadways Employees Union and the Central Regional Workshop Karmchari Sangh. The membership of the Employees Union was very small (registered strength less than a thousand) but it was able to secure political support and some of its office bearers were also drawn from outside the organisation. Thus at the time of the events in this case (latter half of 1977) this union had inducted some new office bearers who claimed that they were close to the members of the State Government formed by the Janata Party in U.P. Despite its insignificant membership, therefore, management was conscious that it would not be wise to ignore the presence of this union in evolving a pattern of management-labour relationships, not least because it had also managed to secure recognition from the State Government and the UPSRTC.

The Karmchari Sangh had a membership of about 2,000 but its influence was almost entirely confined to the vast roadways central workshop complex at Kanpur. Its main demands also almost invariably related to the problems and prospects of the workers in the central workshop.

Another significant union, though not yet recognised, was the Roadways Mazdoor Sabha with a following of about 2,000 employees. Largely dormant in the pre-emergency and emergency period, it had gathered some strength and political support in 1977. Amongst other demands, it was clamouring for recognition.

Apart from the above unions, there were another dozen or so associations and unions which sent demands in their letter-heads to the management and whose representatives also sought meetings and negotiations. The management did not consider them to be of much significance.

With regard to the process of unionisation, therefore, only about 25,000 workers appeared to be affiliated to one union or the other. Inevitably there remained a sizable chunk, as in most organisations, which did not care to associate with any union. Even amongst those associated, management was not at all sure of the level of their commitment and suspected that the majority were indifferent as to the name, colour and ideology of their union but were associating with it mainly to secure some improvements in their own working conditions.

and emoluments.

It will be recalled that with the lifting of the emergency there followed, a period when labour and its unions became very active both vocally as well as, on several occasions and in several parts of the country, physically. The scene was, therefore, one of growing industrial unrest and various other law and order problems as well of a varied nature, including agitations and disturbances in the college and university campuses. All the unions began placing before their management their charter of demands, some of which were reasonable and many, quite unreasonable. These were made before the management and government with growing aggressiveness and, inevitably, in this atmosphere a large number of unruly and goonda elements were able to associate themselves with the union activities. This was what happened in the unions of the UPSRTC also. Management perceived that the leadership had begun flexing their muscles and that there was apparently quite some pressure on them from below to do something melodramatic or quit their offices.

Government had declared strikes in the road transport sector as illegal, under the Uttar Pradesh Essential Services Maintenance Act, 1966. However, past experience indicated that there were very few examples of the Act having any significant deterrent effect, because in the event of a strike the subsequent negotiations and agreement between management and labour almost invariably carried a clause assuring that the latter would not be 'victimised' for having participated in the illegal strike.

As was to be expected, the Parishad took the lead in mounting a campaign for their demands. From April 1977 onwards, reports were received practically every day of gate meetings at the workshops and there were also occasional lightning strikes, lasting a few hours, as also instances of minor *gheraos*. Amidst all this, however, the management in its dialogue with the leadership of the Parishad confirmed its earlier impression that it is dealing with mature and non-political leaders with a fair degree of control, under the circumstances, over their low-level cells because they were at least able to intervene and stop the situations from getting out of hand.

DEMANDS OF THE PARISHAD

The Parishad placed 15 demands on the management, which took the view that the balance of advantage lay in conceding those which were reasonable rather than holding on to even this category of demands till a final settlement on the entire package took place, as the latter possibility was most uncertain and delay would enrage the workers even further. However, even these demands were conceded with appropriate modifications and after protracted discussions of the Parishad leaders with the Chairman and the G.M. and approval of the board of management of the UPSRTC. The details of these concessions were as follows :

- (1) *Framing of Service Rules* — Even though the UPSRTC was constituted in 1972, no service rules of any category of workers had been framed and the entire staff was technically treated as on deputation from the State Government in the erstwhile roadways department which, in fact, converted itself into the corporation in 1972. This had caused a large number of anomalies in the personnel administration and understandable uncertainty amongst the workers. Management, therefore, assured the Parishad that it would now proceed in the matter with utmost despatch and would constitute a committee of officers which would include three members of the Parishad to examine the draft service rules submitted by it and recommend to the board of management and to the State Government the final draft of the service rules within a period of two months.
- (2) *Avenues of promotion* — The management agreed in principle to provide additional promotional avenues in different categories of employees wherever there was stagnation by either introducing a selection grade or giving a stagnation allowance equal to the last increment drawn.
- (3) *Night halt and medical allowance* — The management also agreed to increase the night halt allowance of drivers and conductors and also approved a scheme extending medical benefits to its employees including

a fixed medical allowance per month to different categories of staff.

- (4) *Conversion of temporary to permanent posts* — This was also an important demand which the management felt was most reasonable, as the conversion of all temporary posts which had been in existence for more than three years, and were likely to continue, into permanent posts was a much neglected process which had caused some bitterness amongst the employees. As this, however, required consultation with the State Government, management gave a firm assurance that it would undertake this task on priority and get it completed within six months.
- (5) Rationalisation of rates of wages of daily-rated employees and part-time workers, and their regularisation on fulfilment of the prescribed minimum days of employment as per labour laws and rules.
- (6) Imposition of fine on passengers travelling without ticket on UPSRTC buses.
- (7) Provision of uniforms or overalls to all class four regular employees.

However, the areas of conflict grew with respect to certain demands which the Parishad considered crucial and management and the State Government felt were either totally or partially unacceptable. These were :

- Grant of bonus at the rate of 15 per cent for the year 1976-77 (payable in 1977-78)
- fixation of minimum wages, amounting to an increase of 25 per cent in the wage bill
- increase in the rate of house rent allowance by 10 per cent
- immediate 100 per cent nationalisation of all routes, and withdrawal of all private buses on hire system from nationalised routes.

With regard to the bonus issue, the matter had to be referred to the State Government as a uniform policy had to be followed with respect to all the 55 public sector enterprises in the State. The Parishad, and all the other unions who were simultaneously pressing for bonus at rates ranging from 15 per cent to 20 per cent, were informed that the policy in general was to strictly

apply the provisions of the Bonus Act in calculating the amount payable, if any. However, employees of some enterprises to which the Act was not applicable could also be paid in the shape of *ex gratia* a sum equivalent to the bonus, had the Act been applicable. The UPSRTC was included in this category of enterprises and calculations were furnished to indicate that the *ex-gratia* amount could not exceed 8.33 per cent. This caused an uproar amongst the unions: their contention was that even though the Corporation suffered losses in earlier years, bonus at the rate 9 per cent had been paid under a different government, and now when the Corporation has made a handsome profit in 1976-77, the offer of 8.33 per cent was totally ridiculous and unacceptable. Soon this became the central (emotional) issue in the supercharged atmosphere of those days and in the protracted dialogues and negotiation that took place between the management and the unions, other demands, some no doubt of greater significance, were pushed into the background.

As far as fixation of minimum wages and increase of house rent allowance was concerned, the simple reality that the Management was confronted with, and which it shared with the Parishad, was that howsoever laudable the ideal of minimum living wages, these demands amounted to a 35 per cent increase in the wage bill, *i.e.*, about Rs. 7 crores per annum which the budget could not sustain.

With regard to the nationalisation of routes and keeping the private buses away from the nationalised routes, the management transmitted the views of the State Government which were that while the ultimate goal was complete nationalisation, one had to proceed towards it gradually and as far as private operations were concerned, they would be resorted to in the nationalised routes only to the extent the fleet of the UPSRTC was insufficient to cater to the traffic requirements. The Parishad was rather sceptical of this response and charged the Government and management with favouring the private operators' lobby and threatened to take the law into its own hands in dealing with them.

The management also pointedly and repeatedly drove home the following points to the Parishad :

— even after the creation of the Corporation from a govern-

ment department in 1972, its employees continued to enjoy the same rates of D.A. as applicable to government servants, and were recently sanctioned in a period of less than one year six additional increases.

— this together with those concessions having financial implications already conceded plus *ex-gratia* at 8.33 per cent (one month's wage) already amounted to an improvement of Rs. 4 crores per annum over the previous year. With a rise in tariff structure politically ruled out at the present juncture, only marginal improvement in the income was possible, hence even this increase in the wage bill would cause a serious deficit problem in the budget.

— these benefits placed them in a substantially better financial position than their colleagues in government departments and most other enterprises.

— over and above the financial benefits, the other measures like opening of promotion avenues, rationlising and regularising the *ad hoc* appointments of lower categories of staff, framing of service rules, introducing permanency of tenure, etc., contained the seeds of far reaching reform in personnel policy and administration which would do away with many injustices and malpractices and ensure a happy and secure future for the workers in the years ahead.

NEGOTIATIONS AND RELEVANT ENVIRONMENTAL FACTORS

As stated earlier, however, the atmosphere was not such as was conducive to a rational or reasonable approach prevailing over the voices that were being raised in favour of melodrama, agitations and even violence. The leaders of the Parishad insisted that bonus and the revision of wages issues were of supreme importance to them at this stage and if the demands in this respect were not met it would not be able to quell the passions that were being whipped up and the misunderstandings that were being created and the situation would get out of control.

As these crucial issues could not be resolved to the satisfaction of the Parishad they gave a notice in the month of November of a statewide strike with effect from December 8, 1977.

After the receipt of the notice, the negotiations between the

management and the Parishad acquired a more intensive and urgent pitch. But basically both parties repeated the same arguments with the addition that the management further warned the Parishad that it would not be in its interest to launch a strike as it would be illegal and would, therefore, cause further obstacles in arriving at an amicable solution. At this stage, not wishing to be left behind, the other unions, particularly the Roadways Employees Union and the Roadways Mazdoor Sabha, also insisted on a hearing and consideration of their demands and the management took the view that rather than precipitating matters by openly ignoring them, it would be a better exercise of discretion to listen to and negotiate on their demands, most of which, however, were, in one way or the other, similar to the demands of the Parishad. On the question of the bonus, the management decided in consultation with the State Government to invite all the three recognized unions along with the Mazdoor Sabha (in view of its not insubstantial following) for joint discussion sessions. This added one more item to the list of grievances of the Parishad, who protested that they were the largest union and that it was they who had given the strike notice and hence the management should not negotiate with anyone else in the matter, much less simultaneously in joint sessions.

As the days of November went by, without any signs of an agreement, the management made preparations to meet the situation in the event of a strike. From the point of view of the management, this aspect of its activity acquired a certain piognancy because the weapon that they chose was one which they disliked almost as much as the Parishad, *viz.*, the private bus operators. They realised that once private operators entered the Corporation's domain, it would be even more difficult to keep them at bay after the end of the strike, as they would take on the mantle of saviours of the Government and the travelling public in their hour of need. However, the Corporation had the primary social responsibility of clearing passenger traffic on all routes placed in its charge and had, therefore, no other alternative but to make systematic arrangements in consultation with the Transport Department of the State Government to permit the private operators to ply on nationalised routes, specially on the trunk routes, in the event of a strike.

Over and above the transport arrangements, the management also warned the Government that elaborate precautionary measures would have to be taken to meet possible law and order situation from erupting as the presence of the private operators would enrage and frustrate the striking workers and incidents of violence and sabotage could not be ruled out. Arrangements would, therefore, have to be made not only to protect the property of the Corporation in its workshops but also to ensure the safety of the travelling public on these private buses. In this context, it would be relevant to note the response that the management got from the local district administration which was that while they would do its best, maintenance of law and order being their clear responsibility, their hands were already more than full with all sorts of law and order problems and it would be better if the management could somehow avoid a showdown resulting in a strike. Here, therefore, was an interesting situation : the weapon — the private operators—stood sharpened and ready and enthusiastically willing to serve in the event of a strike, but the capacity to tackle all the attendant problems in the event of its use remained a bit of a question mark.

Another interesting dimension that was added into this mixture was the fact that the Chief Minister of the State was seeking election to the Legislative Assembly in a bye-election scheduled to be held later in December. Understandably enough, all sections and classes of society in the State which had something or the other to seek from the Government felt that they had better do it before the bye-election in the expectation that the Chief Minister and his colleagues in the Government would be inclined to be more generous. Although the leaders of the Parishad disclaimed any such motivation in the timing of their strike notice, the management suspected that even if it took them at their word, they were undoubtedly being pressurised by many workers all over the State to get the concessions before the elections and precipitate a crisis, if necessary. However, the management was gratified to get a clear indication from the Government that while every possible effort must be made to avert a strike and that it would redound to the credit of the management if the strike could be averted, it must not do so at the cost of giving in to unreasonable and financially unbearable demands.

It may be mentioned at this stage that management calculated the cost of the strike to be about Rs. 11 lakhs per day, representing the fixed costs that would have to be incurred on salaries, wages, depreciation and other overheads.

ALTERNATIVE APPROACHES

The background and narration of the events in the preceding paragraphs should give an adequate presentation to enable the pros and cons of the alternative strategies of the management and the Parishad to be reasoned out and analysed. Broadly the management could follow either of two strategies. One was essentially a hard aggressive approach with no further bargaining and firm adherence to the stand of the management including withdrawals of reasonable concessions already agreed to unless the entire package was negotiated with an assurance of industrial peace. Simultaneously elaborate preparations to combat the strike threat by deploying the fleet of private operators and making intensive and extensive law and order arrangements would have to be made. The other alternative would be to adopt the reasoning approach and continue to talk patiently with the Parishad leaders and hope to get them to appreciate the substantial benefits of the package already offered and the ill effects of a strike to the organisation and, therefore, indirectly to the workers. At the same time preparations to meet the strike threat would continue to be made although in a low and unprovocative key. The possibility of giving one or two more concessions as 'sweeteners', e.g., ad hoc payment of Rs. 100 per worker as a gesture of good will also form a component of this strategy.

Similarly the Parishad also was faced essentially with the choice of two broad strategies. One would be the hard aggressive approach, with the leadership of the Parishad accepting the tough hawk-like stance advocated by many of its members and racing determinedly to the day of total strike. The other strategy open to the Parishad was the reasoning, logical approach, with the leadership realising and prevailing upon its own members to listen to the voice of reason and accept the substantial benefits already offered. The gains and losses to either side would depend on the choice of the strategies selected as a result of which several consequences could flow, e.g.,

prolonged strike culminating in an agreement conceding the previously agreed reasonable demands; no strike but with some more concessions given; and a variety of other consequences ranging between these two extremes. Other factors, e.g., inconvenience to the travelling public; criticism in the press; possible annoyance of the Government; personal damage to the career prospects of the members of the executive management; law and order situation getting out of control resulting in loss of life and property; long-term harm to the Corporation by allowing the private operators to come into the picture and create an even more powerful lobby in favour of arresting the process of nationalization, etc., which were not quantifiable in terms of money values alone would also have to be considered.

In the event, the General Manager and the management felt that adopting an approach of reasoning and conciliation was their last course of action. They pinned their hopes on the general secretary and the president of the Parishad with whom, through the long hours of negotiations stretching very often late into the night, they had established a working rapport. The management also emphasised upon the Parishad leaders the dire consequences of opening the gates to the private operators which they would be compelled to do in the event of a strike. Once in, they said, it would be very difficult to oust them even after the strike ended and this state of affairs was surely not in the interest of the workers as their livelihood would be threatened. The management also issued a few advertisements in the newspapers informing the public of the substantial concessions already agreed to and hinted to the Parishad they would hardly achieve their objective of pressurising the organisation and the Government by launching a strike because neither would the sympathy of the public be with them nor would the public be particularly inconvenienced because the private operators were bound to come into the scene with great gusto and thus blunt the effect of the strike.

Simultaneously, during the first few days of December, the possibility of giving a few more concessions as a gesture of goodwill was held out to the Parishad leaders. In a meeting at the level of the Chief Minister, in which the Parishad leaders of the other unions were present, the State Government agreed to constitute a wage committee to go into the matter of revision

of wages and also agreed to include the question of increase of house rent allowance as one of the terms of reference. It also agreed to reiterate the policy of the nationalisation of routes and withdrawal of private buses as and when the UPSRTC increased its number of buses on the road. Furthermore, as a final gesture, the Government agreed to provide interim relief at the rate of Rs. 10 per month per worker but stated firmly that this, plus all the earlier concessions agreed to by the management, including bonus at 8.33 per cent, constituted a package which would be offered only if the notice of strike was withdrawn and there was promise of industrial peace thereafter. The alternative, if the union leaders did not agree to this package, would be that not only the offer of this internal relief but all the other concessions also would be withdrawn.

At this meeting, the Parishad leaders rejected the offer. The management, however, doggedly went on talking to them and despite the nearness of the zero hour, continued hoping against hope that the strike would be called off.

BREAKTHROUGH

On the morning of December 7, i.e., a day before the scheduled strike, there came unexpectedly, almost miraculously, the breakthrough: in a meeting held by the Transport Minister, the Parishad leaders decided to accept the package! They, however, insisted that as the situation had come so close to the brink, nothing less than a signed agreement, in which the Government should also be a signatory, would suffice to convince their members whom they would have to contact in coded form all over the State that an agreement acceptable to the Executive Committee of the Parishad has actually been made and the strike should, therefore, be called off. The management agreed to this and it was decided that the president and the general secretary of the Parishad would sit with the General Manager in his room where the agreement would be drafted and thereafter the leaders along with the General Manager would come to the secretariat for the signing of the agreement by all the parties including the Transport Secretary.

CRISIS AGAIN

One phase of the case could be considered ended at this

stage, heralding the triumph of the conciliatory a logical approach and the ultimate common good that would prevail for all the combatants. It would be interesting, however, to proceed further with the story and observe the process of events that took place during the afternoon of December 7. The Parivahan Bhawan, where the office of the General Manager is located, surrounded on three sides by the regional workshop of the Lucknow region, the regional office, and two other depot workshops of the Lucknow region in a vast complex, where more than a thousand employees worked. While the Parishad leaders and the General Manager were busy in the latter's room drafting the agreement, para by para, and also making trunk calls to various regions intimating that the strike was being called off, a number of people started gathering around his office. Soon the strength of this mob increased to about 500 and they started shouting slogans against the leaders of the Parishad; particularly the general secretary. When the general secretary and the General Manager came out of the room with the draft agreement to go to the secretariat, the general secretary of the Parishad was surrounded by the mob, who hurled abuses at him and insisted on knowing the details of the agreement. From the slogans being shouted it appeared that the mob was enraged at the Parishad in general and the general secretary in particular in having sold out to the management and agreeing to call off the strike for a mere Rs. 10. The General Manager returned to his room and confirmed that the security staff had alerted the district authorities about the situation. He also alerted the Transport Secretary of the Government of the situation. Outside, the general secretary was being manhandled but he managed to escape into the room of the General Manager. The mob followed him in, dragged him out and again started giving him a beating. Somehow the general secretary again managed to escape and rushed into the room of the General Manager to seek protection. This time the mob that followed him was really in an ugly mood and started breaking pieces of furniture and tearing off the cords of the telephone in the room. While their fury was mainly directed at the general secretary, passions had been aroused to such an extent that some of the more ferocious members of the mob started moving threateningly towards the General Manager.

At that moment the General Manager, looking into the eyes of these people, somehow felt sure that not only he but they had read in the newspapers and were keenly aware of the slaughter of some members of the management of a textile mill by an infuriated mob of workers at Kanpur a day before. However, with the help of a few loyal staff they were prevented from attacking the General Manager, but meanwhile the general secretary had been beaten into senselessness. Passions subsided after this moment and soon thereafter a contingent of police arrived and dispersed the mob. The general secretary was taken to the hospital in an unconscious condition.

The scene shifted next to the civil hospital. Fortunately the injuries sustained by the general secretary were not serious and on regaining consciousness round about 7 p.m. he and other leaders of the Parishad pressed for the immediate signing of the agreement. They stated that the mob consisted of unruly goonda elements having nothing to do with their Parishad and that once the agreement was formally signed they would be able to ensure that peace was restored and there would be no repetition of such incidents. They further stated that such unruly elements, who should be dealt with firmly, were totally unrepresentative of the feelings of the workers and this should not mislead the management and the Government into thinking that the agreement would be infructuous because the Parishad leadership had lost its authority and was incapable of honouring its side of the bargain, *viz.*, calling off the strike and maintaining peace and harmony.

ALTERNATIVE STRATEGIES RE-VISITED

Here then is another extremely interesting dimension to the whole case. Having come so far, what should the management do? Should it trust the Parishad leaders and sign the agreement or, better late than never, abandon them and devote all its energy to combat the strike, scheduled to start the next day which, if the scenes of the afternoon were typical of the real mood and feelings of all the workers throughout the State, seemed inevitable? In other words, was the mob representative of the feelings of the workers all over the State or was the situation caused by the enemies of the leaders of the Parishad? A decision had to be made within minutes because if the

agreement was to be signed it would be necessary for the Transport Minister and the Parishad leaders to get on the air during the news at 9.00 p.m. and broadcast live over the All India Radio that an agreement had been made and the strike was called off. Without such an authoritative announcement mischief mongers in other regions of the State might succeed in spreading the rumour that no proper agreement had been signed and thereby allow the strike to start as scheduled and cripple the entire machinery of the UPSRTC.

In such situations no decision is by itself right or wrong. Circumstances, facts and their interpretation and assessment always do differ. What is, however, more important is that the various alternatives and the pros and cons of the consequences of each decision are carefully weighed and a well-reasoned and rationally valid decision made. In actual fact, what happened was that the management, in consultation with the State Government, did not take much time in arriving at the conclusion that the agreement must be signed. It did not allow the immediately preceding melodrama to influence its chain of logical thought and reasoning based on a careful evaluation and assessment of the strength of the Parishad and the standing of its leaders. It considered the events of the past few hours to be symptomatic of the current times wherein unsocial and violent elements frequently infiltrated into organised unions in industry and vitiated labour-management relationships. In the event, the decision proved to be correct because after the signing of the agreement and its announcement over the radio and by other means of communications on the night of the December 7 (in which the Parishad and its leaders worked frantically to spread the news and quell other rumours), the strike was successfully averted and all the buses rolled out of their depots as scheduled the next morning. Of course this is not to say that there was perfect harmony and peace thereafter; as in the past, so also in the following days, there continued to be instances of indiscipline and stoppages of work but these were all localised and controlled quickly. In other words, business continued as usual ! But meanwhile the management and the Government hoped that the foundation of something very significant toward the betterment of the welfare and prospects of the workers of the UPSRTC had been laid by the signing of

the agreement.

GAME THEORY AND MINIMAX

If this case helps in motivating the leaders to adopt a reasoned and rational approach in arriving at decisions particularly at moments of crisis its purpose would be well achieved. To this extent it would be relevant to describe the basic elements of game theory and see to what extent it applied in real life situations of conflict such as the one described above. A simplified example of game theory is the two-person zero-sum game where the two opponents are placed in such a manner that the gain of one is the loss of the other. The Annexure, containing an extract from a text on the subject, is appended to this case, which explains the basic elements of the two-person zero-sum game and the concept of minimax.

Applying this model and keeping it as simple as possible, the following two sets of strategies were open to Management (M_1 and M_2) and the Parishad (P_1 and P_2) :

M_1 = hard aggressive approach (no further bargaining and firm adherence to the stand of the management including withdrawals of 'reasonable' concessions already agreed unless the entire package was negotiated with an assurance of industrial peace; simultaneous preparation to combat the strike threat).

M_2 = reasoning, logical approach (continue talking patiently with the Parishad hoping to get them to appreciate the substantial benefits of the package already offered and the ill-effects to the organisation and, therefore, indirectly to the workers, of a strike; but continue preparations to meet the threat of strike although in a low and unprovocative key; agree to a few more concessions as 'sweeteners').

P_1 = hard aggressive approach (leadership of the Parishad succumbing to its own internal pressures and racing determinedly to the day of total strike)

P_2 = reasoning, logical approach (Parishad leadership realizing and prevailing upon its own members to listen to the voice of the reason and accepting the benefits offered).

In terms of money alone, and on the basis of various assumptions, it was possible to make an assessment of the

consequential payoffs that would result depending upon what strategy was chosen by each side. For instance if $P_1 - M_1$ (head-on clash) obtained one could forecast that the State-wide strike would continue for a few weeks after which there would be a sort of settlement in which Government/the management would, perhaps, be morally bound in any case to concede the 'reasonable' demands costing Rs. 4 crores and also incur losses during the days of the strike (which, for the sake of simplicity*, could be equated to the fixed costs); this could be assumed to be another Rs. 3 crores in the expectation that the strike might continue for about four weeks ($\text{Rs. } 11 \text{ lakh} \times 28 = \text{Rs. } 3 \text{ crores approx.}$). The loss to the management would, therefore, be Rs. 7 crores and assuming again for the sake of simplicity*, that this loss represents a corresponding gain to the Parishad one could estimate the payoff to the Parishad to be Rs. 7 crores also. In the event of $P_1 - M_2$ obtaining (Parishad strong, management weak), the management would have to give into the demands of bonus and hike in wages costing much more than Rs. 4 crores and if the management was indecisive about it, it would probably do so after the strike had already been on for some time; perhaps we could assume that the payoff/cost would be Rs. 10 crores. In the unlikely event of P_2 and M_1 (Parishad weak and the management coming out strongly) the gain/loss would, perhaps, be limited only to the concessions considered reasonable, i.e., Rs. 4 crores. Finally in the event of $P_2 - M_2$ (both sides listening to the voice of reason), one could say that the Government/management would be so pleased with the whole matter that apart from the demands costing Rs. 4 crores, some further benefits could be given as a gesture of goodwill; thus one could ascribe a figure of gain/loss, for instance, of Rs. 5 crores. This reasoning would lead to the Payoff Table given on p. 171.

As the strategy of each player would be to minimise the maximum possible loss, or maximise the minimum gain, as the case may be, the logical conclusion would be that the manage-

*Strictly speaking, ofcourse, it would not be correct to equate the further loss of Rs. 3 crores as a corresponding gain to the Parishad, but it is not necessary to introduce this refinement of a non-zero sum game at this stage for an understanding of the concept, hence the assumption of loss equal to gain has been made.

PAYOFF TO PARISHAD (in Rs. crore)
(equal to cost to management)

P_1 : P_2 =strategies of Parishad

M_1 : M_2 =strategies of management.

M P	M_1	M_2	Minimum of row
P_1	7	10	7
P_2	4	5	4
Maximum of Column	7	10	.



ment would choose strategy M_1 and the Parishad would also choose strategy P_1 (if the management were to choose M_2 , it would lose a heavier amount—Rs. 10 crores—in case the Parishad chose P_1 and similarly the Parishad would also not be inclined to choose P_2 because in the event of the management adopting strategy M_1 it would gain much less—Rs. 4 crores).

This was all very well as far as money values went. But the factors for consideration in analysing the pros and cons are better evaluated if one considers 'utility' values rather than values in terms of money alone to the extent that if there are other factors, apart from the loss and gain in financial terms, as there undoubtedly are in the real world, then, to the extent possible, the reasoning and logical approach should be to try and evaluate and quantify them to the extent possible and then judge the gains/losses in terms of 'utility' rather than money. A whole host of factors of course enter into consideration when one gets into the realm of 'utility' and each has its own weight. Howsoever

inadequate and imperfect the utility theory is in helping solve business-decision problems, devoting a little thought from the point of view of utility would at least help in the process of systematic evaluation of the pros and cons of the various alternatives open to management. Thus from the point of view of utility, strategy $P_1 M_1$ may not merely represent a loss of Rs. 7 crores to the management but on evaluating all the other negative aspects (inconvenience to the travelling public, vicious criticism in the press, possible annoyance of Government personal, damage to the career prospects of the members of the executive management, law and order situation getting out of hand resulting in loss of life and property, long-term harm to the Corporation by allowing the private operators to come into the picture who would create an even more powerful lobby in favour of arresting the process of nationalisation and even press for denationalisation of routes) the total loss would be much more and to fix in one's mind some sort of a 'quantifiable an image' of this loss one could measure it also in terms of money and say for instance the actual loss will be Rs. 15 crores. In other words, the 'utility' value, in terms of rupees, of the loss would not be only Rs. 7 crores but the sum of the cost of all the other negative factors, say Rs. 15 crores. By the same process of reasoning, strategy $P_1 - M_2$ (Parishad strong—the management conciliatory) would also result in some ignominy to the management and lay it open to the charge of being ineffectual and, therefore, cost in terms of utility more than Rs. 10 crores although the cost would not be so bad as $P_1 - M_1$: an arbitrary figure of Rs. 12 crores could be fixed for this. As far as $P_2 - M_1$ (Parishad weak : the management aggressive) is concerned, this event was so unlikely that it was unnecessary to think much about it and hence the figure of Rs. 4 crores could be left untouched. However, the solution $P_2 - M_2$ (both conciliatory) would be so 'sweet' to the management—triumph of reason, no strike, least cost, no law and order problems, government very happy, with a thump on the back for good work done to the management, etc.—that although the loss in actual terms would be Rs. 5 crores, if it were reckoned from the point of view of 'utility' it could appear much less from the point of view of management because of the positive factors; say Rs. 3 crores. This sequence of logic would, therefore, lead the management to adopt strategy M_2 as it would

be superior to strategy M_1 , regardless of the strategy adopted by the Parishad. The table at p. 173 depicts this reasoning. It shows on the upper side of each box the loss in terms of 'utility', whereas the gains to the Parishad, which remain the same as before, are shown in the lower left corner.*

PAYOFF TABLE

(Gains to Parishad in lower left-corner and loss in terms of 'utility' in upper corner)

M	M_1	M_2
P		
P_1	15	12
	7	10
P_2	4	3
	4	5

It will be seen how both the management and Parishad after considering the M_1-P_1 strategies ultimately reasoned out that the M_2-P_2 approach would result in the likelihood of maximum gain (notwithstanding a loss in monetary terms to the management) to both.

*This would be an example of a non-zero sum game, where the gain of one is not necessarily equal to the loss of the other, where however some solution (in this case P_2-M_2) yields more joint satisfaction than others.

Annexure

TWO-PERSON ZERO-SUM GAMES*

In a two-person zero-sum game the interests of the two opponents are opposed in such a manner that the sum of their utilities add to zero for every outcome of the game. An example of a zero-sum game would be two persons matching pennies, where each person has a linear utility function with respect to money. The sum of money (utility) won by one is the sum of money (utility) lost by the other. Both participants know the payoff matrix in game theory terms.

It is a characteristic of two-person zero-sum games that there is a unique minimax solution. The prime advantage of a

TABLE 18-1
PAYOFFS TO PLAYER 1

1	11	Strategy 1	Strategy 2	Minimum of row
Strategy 1.....	10	14	10	
Strategy 2.....	7	12	7	
Maximum of Column	—	—	14	
	10			

*(Extract from "Quantitative Analysis for Business Decisions" by Bierman, Bonini and Hausman p. 388.)

minimax solution in this situation is that it is the best choice of the decision maker if the other participant has chosen a minimax solution. Unlike a game against nature, where the sole advantage of a minimax solution is a form of conservatism, in a game against a thinking opponent, minimax is likely to be a desirable procedure. However, minimax may not lead to the best possible outcome if the opponent does not use a minimax solution.

We shall use a payoff table which shows the profits of the party whose strategies are listed down the left side of the Table. The profits of the opponent (his strategies or acts are listed across the top of the Table) are not listed, since they are the negative values of the payoffs shown. Table 18-1 illustrates a payoff table.

In the margins of the payoff table are the row minimums and column maximums. The minimax solution attempts to maximize a security level for the players (minimize the maximum possible loss, or maximize the minimum gain).

For each strategy of player I, we find the minimum gain we would make if faced by the best strategy of player II (these are the row minimums). For each strategy of player II, we find the maximum gain of player I (this is also the maximum loss of player II). These are the column maximums. Player I will choose the largest of the row minimums (in this case strategy 1), and player II will choose the smallest of the column maximums (in this case strategy 1). Since the maximum equals the minimax (both have values of 10), we have an equilibrium. The values are called an 'equilibrium' pair. If one of the parties tried to move from this equilibrium while the other maintained his position, the mover would not improve his position. A pure strategy (*i.e.*, a choice of only one strategy by each player) leads to a strictly determined game when the maximum of the minimum values of a row is equal to the minimum of the maximum values of the columns. The value 10 is called a saddle point.

It should be noted that the margins of Table 18-1 give the guaranteed minimum profits of player I or the guaranteed maximum costs of player II. Since the values listed in the table may be expectations, these may be guaranteed expected values.

The Municipal Muddle

P.S. Bhatnagar

The Municipal elections of 1960 were the first of their kind in the state. The Municipalities Act (1958) had come in force only in the month of October, 1960 and elections were promptly held in the same month.

Previous to this, the Municipal Councils were nominated bodies. The President of the Council used to be a Government Officer who held this charge in addition to his own office. The Councils were totally financed by the Government. Their own sources of revenue were almost nil.

In the previous general elections held in 1958, the ruling party had fared rather badly in the urban areas. When the decision to hold the civic elections was, therefore, taken the ruling party was not very certain of its standing in the urban areas. The ruling party took a policy decision that none of its partymen will contest the elections; in any case not on the party symbol. They decided that they will support independent candidates, wherever possible. Some staunch partymen contested the elections but on independent tickets. This was a rather clever move because it had been decided already that in case the ruling-party supported independents, who were none else than party sympathisers, came out victorious, they would join the ruling party in large numbers. This move would, if successful, help greatly enhance the popularity of the party for the ensuing Parliamentary elections, which were only six months away.

The move, however, misfired completely when most of its candidates were defeated in the elections. In the whole State not a single important Council came under the sway of the ruling-party-supported independents. Only in some minor Municipal Councils did they have a precarious majority. This was a situation which the ruling party did not much relish.

Only in the.....Municipal Council from amongst the top six Municipal Councils did the ruling party have some semblance of a chance for getting into the majority. This came as a rude shock to the ruling party because.....area was considered to

be a stronghold of the party and it was commonly expected that the party would get a working majority in this Council. When the results were announced, however, it was found that the pattern of the rest of the State had been followed here also with the slight change that the difference between the ruling and the opposition parties was very small. Out of the total of 33 seats, 15 went to the ruling party. The opposition party put up a candidate for the Mayorship who was elected by 18 votes to 15. This was Shri J. Ram. Two Councillors were co-opted on the Municipal Council, though these Councillors had no right to vote.

This newly formed Council started discharging its duties smoothly until March 30, 1961 when a notice signed by 18 Councillors was received by the Collector Shri Lal requesting for calling a Special Meeting for considering the resolution regarding removal of the Mayor of the Council from the office.

Sub-section (3) of Section 56 of the Municipalities Act provides that the Director of Municipal Administration would convene the Special Meeting requisitioned by the Councillors within a period of 10 days from the date of receipt of the notice by him. The only condition for convening a Special Meeting as laid down in sub-section (2) of Section 56 is that such Special Meeting should be requisitioned by not less than one-fourth of the total number of Councillors excluding the co-opted ones.

As the Special Meeting was requisitioned by 18 Councillors out of the total of 33 elected Councillors, the Director of Municipal Administration Shri Singh convened the Special Meeting on April 5, 1961 at 10.30 a.m. in the office of the Municipal Council. Shri R. Additional Collector was authorised to preside over the said meeting.

In the course of the meeting Shri J. Ram whose removal from the Mayorship was being considered in the meeting walked out alongwith four other Councillors. The Meeting continued and the motion regarding removal of the Mayor from his office was passed by eighteen votes to ten.

Shri B.M. Prasad, an independent was then elected the Mayor with the support of the ruling party and he continued till August 29, 1962 when a notice signed by 17 Councillors was received by the Director of Municipal Administration,

which post was now occupied by Shri Lal, requesting for convening a Special Meeting for considering the resolution expressing no confidence in the Mayor. In accordance with the provisions contained in Section 56 of the Municipalities Act, the Director of Municipal Administration convened the Special Meeting on September 6, 1962.

Against this order of convening the Special Meeting, Shri Prasad went in writ to the High Court on September 5, 1962 and got a stay order against the holding of the meeting. The Special Meeting was, therefore, postponed by the Director of Municipal Administration. In the writ petition it was stated that Section 56 of the Municipalities Act only empowered the Director of Municipal Administration to convene a meeting for the removal of the Mayor and no such term as 'expressing no confidence, etc.' was mentioned. The Director of Municipal Administration had, therefore, acted beyond his jurisdiction, and it was prayed in the petition that his order convening the Special Meeting should be set aside on this ground.

While this writ petition was pending before the High Court a fresh notice signed by the seventeen Councillors on September 1962 was received by the Director of Municipal Administration requesting to convene a Special Meeting for the 'removal' of the Mayor from his office. Efforts were, however, made from the highest political quarters to stop this meeting from taking place. The Law Department, on its own motion sent a note to the Director of Municipal Administration saying that since the requisition dated August 29, 1962 was *sub judice* a new requisition could not now be entertained on the same subject. This requisition, however, was exactly in accordance with the Section 56 of the Municipalities Act and the Director of Municipal Administration decided to call the meeting. Since the stay order of the High Court was directed only against a technically wrong requisition, he noted that it did not apply to the second requisition.

Accordingly he convened the Special Meeting on September 9, 1962 and the notices thereof were forwarded to the Chief Executive Officer of the Municipal Corporation for service to the Councillors concerned. The notices were sent on September 8, 1962. According to the rules, three days clear notice was required for such a meeting.

Fifteen of the 33 Councillors refused to accept the notices on the ground that the date on which the notices were served on them, was a holiday though the Chief Executive Officer had managed to make arrangements to serve the notices on all the Councillors on the same date.

The Chief Executive Officer asked the Director of Municipal Administration whether the notices could be served on the concerned Councillors on the next working day. Since they had refused to accept the notices when they were served on them, the Chief Executive Officer was told that there was no need to serve the notices on the Councillors who had refused to accept them earlier, and he was asked to give a report to that effect. The Additional Collector who had been asked to preside over the meeting was informed of this fact and he was instructed to go ahead with the meeting in the said circumstances.

In the meantime, a deputation led by Shri Prasad called on the Director of Municipal Administration and stated that the fifteen Councillors of the Municipal Council were not served with the notice of the meeting and as such the meeting, if held, shall be illegal. Shri Prasad was informed that efforts to serve the notices on him and 14 other Councillors had failed because they had refused to accept the notices. In any case, they were aware of the meeting and could attend, if they so desired.

In accordance with the instructions of the Director of Municipal Administration, the Special Meeting was conducted. It was attended by eighteen Councillors as also the coopted two Councillors and fifteen Councillors absented themselves from the Meeting. The resolution regarding the removal of the Mayor from the office was passed in the said Meeting by eighteen votes to nil.

In fact, Shri Prasad should have handed over the charge of the Mayorship of the Council to the Deputy Mayor after the passing of the resolution regarding removal of the Mayor. The Chief Executive Officer of the Council even wrote to Shri Prasad to hand over the charge to Deputy Mayor. But instead, Shri Prasad continued to function as the Mayor. The Collector was asked to make arrangements towards electing a new Mayor for the Council.

The holding of the Special Meeting for passing the resolution for the removal of the Mayor from the office was challenged

by Shri Prasad in the Court of the District Judge, on the ground that the meeting according to which he was removed from office was illegal. It was alleged in the petition that the Director of Municipal Administration had acted in collusion with the other group and had issued instructions not to serve the notice of the meeting on the petitioner and 14 other Councillors, and he obtained a stay to the effect that no action should be taken in furtherance of the resolution removing the Mayor from his office. Although the stay was granted, the Court ordered that Shri Prasad should hand over the charge of the Mayorship to the Deputy Mayor and he should discharge, the functions of the Mayor till the disposal of the suit.

In the meantime, 14 Councillors of the Council requested the Mayor to convene a Special Meeting for passing a resolution for the removal of the Deputy Mayor. In view of the provisions in Section 56 of the Municipalities Act, action towards convening a Special Meeting for passing a resolution for the removal of the Deputy Mayor had to be convened by the Mayor and no action was required in the matter on the part of the Director of Municipal Administration.

The situation now was that the Mayor had been removed from the office, though the removal was the subject of a court case. The Deputy Mayor who was working as the Mayor, himself was the object of a no-confidence motion but since the requisition for such a meeting was to be addressed to the Mayor, who had to take further action and the acting Mayor refused to take any action, the matters had got into an impasse. Such a situation was not contemplated by the Act also. The matter was, therefore, referred to the Law Secretary who stated that the competence of the Municipal Council to perform the duties imposed upon shall have to be based on facts. The matter was, therefore, of subjective satisfaction of the Government as to whether a situation existed where the Municipal Council was unable to carry out its functions. The Law Secretary advised that if the Government was of the above opinion, Section 298 of the Municipalities Act could be resorted to and an Administrator could be appointed. According to him, such a situation did exist in the instant case and action could be taken to supersede the Municipal Council. Shri Lal, however, noted on the file that situation was quite clear and if matters were allowed

to take there own course, the Municipal Council appeared quite capable of performing the duties assigned to it.

By this time 17 Councillors of the Municipal Council requested on September 28, 1962 for a Special Meeting for passing a resolution for the removal of both the Mayor as well as the Deputy Mayor from their offices. For this provision existed in the Act, but the Director, Municipal Administration passed an order saying that Shri Prasad had already been removed from office of Mayorship and another motion to remove him could not be entertained.

As mentioned before, Shri Prasad had earlier obtained an injunction by the District Judge's Court. Seventeen Councillors of Municipal Council approached the High Court against this injunction. The High Court in its judgement dated October 10, 1962 said "it is also pertinent to note that the respondents (Shri B. M. Prasad and party) do not deny that service was effected on all the appellants (Shri J. Ram and party). The notice was issued by Respondent No. 2 (Shri Lal) who is a Secretary to Government. I see no reason why similar instructions should not be given regarding the service of notice on the remaining Councillors. I strongly reject the suggestions that Respondent No. 2 (Shri Lal) did not issue instructions to serve the notice on the remaining Councillors, because he was acting in collusion with the appellants. Quite on the contrary, I do presume that the Respondent No. 2, who is a Secretary to Government has acted with all the propriety that his status and position demand. My conclusion therefore are that the respondent Councillors refused to accept service and therefore are deemed to have had constructive notice that the meeting to take place on September 9, 1962 had been convened for ousting the Respondent No. 1 (Shri Prasad) from the Mayorship of the Council. He set aside the order of the District Judge and directed the Government and the officers concerned with the Municipal Administration to implement the resolution passed by the Municipal Council on September 15, 1962 removing Shri Prasad by the Mayorship of the Municipal Council forthwith."

Meanwhile the Law Department which was not the administrative department, when consulted about the requisition dated September 28, 1962 suggested that action should be taken to supersede the Municipal Council because of the confusion

prevailing there. Shri Lal had gone to Delhi to attend a conference and was away for 3 days. When he returned on November 6, 1962 the file was placed before him with the Government orders to the effect that the Municipal Council had become incapable of performing its functions and the Collector should be appointed the Administrator after superseding it. Shri Lal made out a strong case that if such action was taken not only will it be liable to be set aside on the ground of malafide but the Government may be held responsible for committing the contempt of Court in view of the clear orders of the High Court that "The Government and its officers connected with Municipal Administration are directed to implement the resolution passed by the Municipal Council on September 9, 1962, which in effect would mean that a new Mayor should be elected and the democratic process allowed to take its course. Shri Lal was pressurised by the political bosses to withdraw the note on the ground that the prestige of the Government was involved and he should not play with it. Shri Lal refused to withdraw the note. He was, then, overruled after the Law Secretary and the Advocate General were duly consulted. Both of them said that no question of contempt of the Court was involved and no malafide against the Government could be proved. Shri Lal was told in unclear terms to implement the Government orders. The order was passed on November 9, 1962 and the Collector took charge as the Administrator on November 10, 1962.

Shri J. Ram, Councillor, approached on October 11, 1962 the High Court for a stay of Government order appointing the Municipal Administrator. The stay requested for by Shri Ram was granted to him by the Court. The opinion of the Law Department was that since the Municipal Administrator took charge on November 10, 1962 and the stay order was passed by the Court on November 11, 1962, the order of the Court was infructuous because the party aggrieved with the appointment of the Municipal Administrator could approach the Court for quashing the Government orders and could not go for obtaining a stay of its operation. The High Court was, therefore, moved by the Government accordingly. The High Court after a long and protracted hearing quashed the order of the Government appointing the Municipal Administrator and prohibited the Additional Collector from functioning as the Administrator. In

its judgement the High Court said "...it passes my imagination how any of these reasons...could lead the Government to form an opinion that a situation had arisen in which the Administration of the Council could not be carried out according to law. It seems to me, that the reasons are no reasons at all, requires on further comment", further "I quoted the reason verbatim because it is couched in a language which is somewhat incongruent". The judge also said "The reason that the convening of the meeting was inconvenient is, to say the least absurd. It is significant that the respondent (Government) had committed to state as to whom the convening of such meeting would be inconvenient."

The Law Department then stated that in their opinion the judgement of the High Court suffered from improper appreciation of the legal position. The Government, therefore, decided to file an application in the High Court for leave of appeal to the Supreme Court.

The application for leave to appeal and stay of its order filed by the Government was turned down by the High Court.

The appointment of the Administrator and the order superseding the Municipal Council had therefore to be cancelled and fresh election to the Mayor's post was held. A candidate, sponsored by Shri J. Ram was elected as the mayor.

Meanwhile a contempt of Court complaint had been filed in the High Court against the Collector. The Collector had to call a Special Meeting of the Municipal Council, according to the Municipalities Act, within 25 days of the vacancy to the post of the Mayor having occurred. It was alleged in the complaint that after the order of the High Court dated November 10, 1962 directing the Government and its officers connected with Municipal Administration to implement the Council resolution of September 15, 1962, it was incumbent on the Collector to have called the meeting immediately to elect a new Mayor. His deliberate delay in calling the meeting, it was alleged, was wilful disobedience of the High Court's order and constituted the contempt of the Court. The High Court dismissed the complaint on the ground that the Collector's jurisdiction to call the meeting could not be exercised within 25 days of the vacancy having occurred because of the stay given by the District Judge and after 25 days the Collector had no power to call such a

meeting on his own motion. The Collector was fortunate that the High Court took this view. The fact that a separate complaint for contempt of Court was notified against the Government and the Director of Municipal Administration, was also a lucky chance.

The Law Department not satisfied with the situation for which it was in a large way responsible, decided to move the Supreme Court for special leave to appeal against the order of the High Court quashing the Government decision to supersede the Municipal Council. This petition was dismissed by the Supreme Court within minutes.

Thus ended the famous case of the—Municipal Council which created quite a sensation in the State. The misuse of the Government machinery by the political bosses and the manipulated opportunities ill-advice of the Law Department nearly landed two officers in great trouble. Honesty and integrity, however, triumphed in the end and justice prevailed.

Authority and Conflict

Abhijit Datta &
D.D. Malhotra

Polynagar is a major city, a newly created State after Independence. It has a Municipal Council functioning for more than a hundred years. The Council was under supersession from January 1967 till November 1970. The election to the Council took place in October 1970 and Shri A. Rajan was elected as the Council's President. The new Council took charge on November 12, 1970 for a term of three years.

While under supersession, the District Collector was the Administrator and an officer belonging to the State Administrative Service was the Commissioner of the Council. The Commissioner continued even after the Council was elected, but, was subsequently transferred as Secretary of the Improvement Trust in the same city on May 22, 1971. Thereafter, the Municipal Revenue Officer, Shri Khal Raj, acted as the Commissioner till Shri C. Nayak joined the post in the Council on May 19, 1971.

Shri Nayak belonged to the State Administrative Service and his previous posting was as the Assistant Collector, Polynagar. Shri Raj joined the Council in 1936 and rose to the post of Revenue Officer just before the post was included in the state-wide municipal service cadre in 1959. After joining the cadre, he was once transferred to another Council for a period of nine months before he was transferred back to Polynagar Council.

On June 4, the President of the Council wrote to the State Minister of Local Self-Government resenting the manner of posting of the new Commissioner and pointed out:

Before appointing any person to such a post, it is very essential that the President should be consulted and taken into confidence. It would have been better, if you had sought my opinion before appointing (Shri Nayak) to the Council... such practice cannot be said to be good for democracy and the conduct of good administration (in Hindi).

NOTE : To maintain anonymity, the names, of the persons and of the town have been changed.

On June 8, the Commissioner wrote a D.O. letter to the Revenue Officer (RO), with a copy to the President, in which he expressed concern about the collection of municipal revenue, and urged that necessary steps be taken to gear up the collection machinery. Next day, this was followed by another D.O. letter to the RO in which the Commissioner introduced a system of rating daily performance of the revenue staff which would be added at the time of annual confidential report and considered for promotions.

On June 15, the Commissioner sent another D.O. letter to the RO in which he reiterated his earlier concern about the precarious financial position of the Council and urged him to pay special attention to this matter. The RO showed this letter to the President, who wanted a detailed statement of all outstanding bills to be submitted to him and informed the Commissioner accordingly.

At about the same time, the President issued orders that no official should use municipal jeeps without his permission. The RO got a jeep allotted to him from the President, but the Commissioner preferred to complain to the Collector about the President's order. The Collector wrote back to the President saying that the officers of the Council should not be restricted in using the vehicles and requested him to make the Commissioner responsible for vehicle allotment to the officers. The President reacted sharply to this intervention and wondered how the Collector came to know of the particular order which was sent only to the Commissioner and the Fire Officer. He also pointed out that he had asked the Commissioner to let him know of any difficulties experienced by the officers on account of his order and send him the proposals for jeep allotment on that basis, which had not yet been submitted to him.

Each year a local religious festival is held in Polynagar during August. The festival draws a large number of pilgrims from the country and abroad. The Municipal Council plays an important role during the festival by providing health and sanitation facilities. The Collector had already initiated the arrangements for the festival. On July 8, the Commissioner sent a secret D.O. letter to the Collector expressing his difficulties in making arrangements. He also stated that the committees

were not working due to tension among the councillors. The President had limited powers of sanctioning expenditure, while the Commissioner did not enjoy any financial powers.

The Commissioner had also written to the Collector on July 5, requesting him to transfer to the Council a peon attached to him while he was Assistant Collector. Again, on July 15, he made a similar request for the transfer of a clerk working in the Collectorate on deputation to the Council as Accountant. The transfer, however, did not take place.

Meanwhile, on July 14, the President sent an office note pointing certain lapses on the part of the Commissioner in dealing with the case 'Five Hawkers'.¹ He asked the Commissioner to submit the case of the hawkers along with that of the cloth dealers with his comments so as to enable the President to decide about the final allotment of the *chabutras*.

Another case concerning lease of municipal land to an 'Oil Mill' also was forwarded by the RO to the Commissioner. On July 17, the Commissioner observed that in view of a notification by the Government, direct leases of municipal land for commercial purposes could not be granted and auction was to take place for such leases. He suggested that the matter be

¹The Municipal Council constructed shops on municipal land and allotted these to those occupying such land on *tehbazari* (licence fee) basis. In 1969, a number of old cloth dealers represented that they might be allotted the shops. Later, five hawkers also made representation that they be allowed to carry on their business in a *chabutra* (projected platform on the roadside) constructed by the Council on the footpath of the main road of the market. On the recommendation of the RO, the Commissioner suggested that the hawkers' request be rejected. The President wondered: 'what is the use of these chabutras?' The RO promptly reversed his stand now suggested that this might be allotted to the hawkers. He also pointed out (apparently, a later interpolation) that the *chabutras* were occupied by the cloth dealers on payment of *tehbazari* to the Council. The Commissioner inspected the site and recorded that the site was unoccupied though the hawkers were carrying on their business nearby. He suggested that the site could be allotted to them on payment of *tehbazari*. The President sent a note to the Commissioner, prompted by a councillor, remarking that the Commissioner did not submit the case of the cloth dealers while presenting the case of the hawkers and requested him to do so for his final orders.

referred to the Director, Local Bodies for clarification.²

On July 19, the President issued an office order reallocating typing work to different sections. In the new arrangement, the Commissioner's steno and typist were transferred and a Hindi steno was posted in his office. The Commissioner reacted on the same day and sent the following note to the President, with a copy to the Collector, urging him to direct the President "to remain in his domain".

To my surprise you have issued these orders of transfer without consulting me. The Government has posted me as Commissioner of Municipal Council, and it is my duty to look to the administration and general management of the office. I regret to say that your such type of orders of posting and transfers will create not only indiscipline, but also inefficiency and dislocation of work in the office. I am fully satisfied with the work of these present individuals and these transfer orders, issued directly by you, will not be in the interest of the Municipal Council. I request you to cancel these orders forthwith otherwise I will not be responsible if the work of the Municipal Council suffers. Hoping that you will endorse my views, I have ordered my stenographer and the steno-typist not to move from this place.

I would also request you that the direct orders without consulting me may kindly not be passed to Heads of

²An oil mill was carrying on business in a temporary shop on a plot of municipal land. In 1969, the shop was gutted in a fire in the locality. The Administrator-Collector assured owner that he could start his business after constructing his shop. The owner submitted a plan for a *pucca* construction, which the Council rejected and he was asked to execute a lease deed and pay lease money (about Rs. 18,000) before applying for construction. The party expressed inability to pay the amount. At the same time, he went ahead with construction and the Council issued legal notice for its demolition. The party filed a suit for injunction and also moved the Director, Local Bodies, and get a stay order. The President thought it desirable to reduce the original amount of lease-money for a reasonable monthly rate of licence fee fixed at 50 per cent higher than the existing rate. The Commissioner pointed out that in view of a Government notification, direct lease for commercial purposes could not be executed and suggested that the matter be referred to the Director, Local Bodies, for clarification. The President, however, stuck to his decision and directed action accordingly. Thereupon, the Commissioner sent the file to the Secretary, LSG alleging that the President had acted illegally.

Department and lower staff which makes a bad effect on the staff. I may not be responsible for any mismanagement and poor disposal of work.

Next day, the President wrote back to the Commissioner saying that the typing arrangements made by him are in the best interest of administration of the Council and for which he was fully competent. He requested the Commissioner to implement his orders immediately and report back by next day. To this, the Commissioner wrote:

I draw your kind attention to the provisions of Sec. 307 of the (State) Municipalities Act which lays down that all officers appointed under Sec. 308 and 310 are all subordinate to the Commissioner. Further a duty is imposed on the Commissioner to watch over the financial and executive municipal administration. The President has, no doubt, control over the municipal administration but so far as I can gather from the provisions of the Act, he has his interference called for in case of mala-administration, inefficiency, etc., if brought to his notice.

In the instant case, so far as the staff attached to me is concerned, I am the best judge whether their work is satisfactory or not. I very much regret that the interference with my staff is being made without my previous consultation. I am sorry that your non-cooperative attitude may compel me to approach the Government or any other officer in this behalf. I, therefore, request you to kindly reconsider the decision and in case you still persist. I shall be compelled not to carry out the orders.

The Commissioner also wrote to the Collector, enclosing the orders of the President, and pointed out that the President by passing such orders was violating the spirit of the Act and making his position as nought, thereby lowering him in the estimation of the staff and the public. He urged the Collector to exercise his powers under Sec. 283 and direct the President not to interfere in staff matters and leave their control to him.

On July 21, the Commissioner issued an office order keeping in abeyance the posting and transfer order of the President on July 19, 1971. The President thereupon promptly issued an office order cancelling the Commissioner's order and directed all officials to report compliance to him. He also threatened severe

action in the event of any disobedience of order. The Commissioner on receipt of this order, wrote to the Collector:

As per our talk, I informed the President to talk to you with regard to the matter of general transfers which he issued without my knowledge. The President refused to talk to you in a very arrogant manner. I had to express my inability to obey his orders being a representative of the Government over here and I had to issue order that the orders issued by the President are kept in abeyance till further orders. Thereupon, the President issued today another Office Order (this was quoted in full).

...The situation has become so tense that there may be every possibility that he and his friends may virtually man-handle and criminally assault my staff and my position as well has become very delicate and I am afraid that they might not meet the same treatment with me also in the office. Looking to these circumstances, I have to request you again to intervene in this matter immediately and stay the operation of President's orders regarding transfer of the staff.

I also had a talk on phone with the Secretary, LSG Department and he has also told me on phone that such high-handedness of the President must not be allowed.

As the Municipal Council is legally under your supervision and control, therefore, you are quite competent to stay these orders immediately.

Later, on the same day, the Commissioner sent another letter to the Collector in which he complained :

The President has issued today immediate and urgent order in which he has ordered me not to use the jeep of the Municipal Council after 5.30 p.m. but whereas he himself has been using the Municipal jeep for his personal use around the clock. Whereas, I need the vehicle even after 5.30 p.m. for site inspections and meeting the officials and non-officials in connection with the work of the Municipality.

In another order which he has issued today, he has ordered me not to occupy the municipal residence and he has allotted directly another quarter to Asstt. Fire Officer when this was meant for Executive Engineer and Medical Officer of Health. This act of the President is not fair and justified

particularly when E.E. is likely to be posted soon to this Council.

His such hasty and unconsidered actions clearly reflect that his such acts are most unfair and malafide.

On the same day, the Commissioner had sent a lengthy confidential note to the Secretary, LSG Department on the working of the Council.³ He dwelt on the unsatisfactory financial position of the Council and stated that there were no funds to honour its liabilities. He pointedly mentioned about the RO and complained that he was flouting orders and was indisciplined. He alleged that the RO was irresponsible due to the patronage of the President. He also complained of corruption on the part of the RO regarding the collection of octroi receipts. He mentioned about the case of the 'Five Hawkers' and alleged RO's complicity with the President by reversing his earlier recommendation. He also complained that in spite of Government orders the RO did not hand over charge to him for a week on the plea that the President was out of station. He strongly urged that the RO be transferred.

Commenting on the state of administration, he complained that it was most unsatisfactory. The committees were not functioning as these were not convened by their chairmen. Many of the chairmen had resigned. There was also a court injunction regarding the President's attempt to reconstitute the committee.

Complaining against the President, he observed that the administrative control of the office was being disarranged by the President without any consultation with him. He pointedly mentioned about the President's order of staff transfer, allotment of jeep and the leasing of land to the Oil Mill. In connection with the arrangement for the local festival the Collector convened a meeting which the President ought to have attended, but he refused. He also mentioned about his lack of financial powers. He admitted that under the rules the President was the controlling officer, but no delegation was made to him so that he could not exercise any control over the use of municipal vehicle. On the contrary, the President was exercising his power arbitrarily by restricting the use of vehicles, wholesale transfer of

³The letter was written on July 19, 1971, but was sent on July 21, 1972.

staff and allotment of municipal premises to a junior officer.

On the functioning of the Council, the Commissioner expressed the opinion that there was no stability in the Council. The councillors were fighting tooth and nail with each other, without any regard for general welfare. He mentioned that the Five Hawkers' case had taken a political colour. He doubted that either of the two major political parties could ensure stability of the Council as there were groups and factions in them.

He finally suggested that the Council be superseded and the Collector be made as Administrator. He also recommended that the RO, Fire Officer and the Garden Supervisor be transferred since they were working in the Council for the last 20 years. Meanwhile, he requested the Secretary to issue necessary directions to the President.

Subsequently, on July 22, the Commissioner again wrote to the Secretary, LSG Department, while enclosing a copy of the President's transfer order, as follows :

He has issued these orders without even consulting to make my position crippled and ineffective. His action has created in the whole of the staff of this Council complete indiscipline and chaos. I brought this matter to the notice of the Collector and upon his approval I expressed my inability to carry out his arbitrary and illegal orders and ordered the staff that his orders be kept in abeyance till the decision in this matter by the State Government and the Collector. The whole of the municipal work has come to a standstill.

The motion of no-confidence is to take place against the President on July 29, 1971. His position appears to be very delicate. I request in the interest of proper administration, efficient running of Municipal Council and for the stability which is required for proper administration, that order passed by (the President) may kindly be cancelled. I tried my best for the last $1\frac{1}{2}$ months to persuade (the President) to work always according to rules and law, but he paid no heed to it. He is being guided by the Revenue Officer. Such state of affairs may kindly be curbed with a firm hand.

Meanwhile, the President wrote to the Commissioner on July 24, in response to his note dated July 20, 1971.

Perhaps you have not gone through Sub-Section (3) of

Sec. 307 under which a Commissioner or an Executive Officer as the case may be shall be subject to the control of the President or Chairman of the Council or Board.

...your non-compliance of the orders of the President will amount to serious neglect, wilful disobedience of orders which is punishable under law. You may also see Sec. 67 of the Municipalities Act under which it shall be the duty of the Chairman of a Council to exercise supervision and control over the acts and proceedings of all officers and servants of the Council in matters concerning the accounts and records of the Council.⁴

You may also see Sub-Section (3) Sec. 310 of the Municipalities Act under which all persons appointed under sub-Sec. (1) or (2) shall be under the control and supervision of the President or the Chairman, as the case may be.

One of the most implied term of 'service' is that the servant should obey the master and should submit to his authority and respect him. This is independent of the question whether the servant likes it or not. The legal duty to obey is on the servant.

The Commissioner replied to the President on the same day that :

I am well aware of the provisions of the (State) Municipalities Act but it is very much regretted that you have failed to follow these provisions properly. In reply to your Para No. (1), Section 307 Sub-section (3) of (the State) Municipalities Act does not give you arbitrary powers. You cannot make transfers, posting or issue orders arbitrarily without my consultation and knowledge. I regret to observe that not allowing me the use of jeep after 5.30 p.m., not allowing me to use residential premises earmarked so far for the Commissioner and allowing residential premises which was earmarked so far M.O.H. and the Executive Engineer to a very junior employee of the Municipality clearly reveal that you have not acted in the

⁴Under the State Municipalities Act, municipal administration vests in the City Council. The Council may delegate its executive functions to the President, Vice-President, Commissioner or any other officer. In Polynagar, no such express delegation took place.

interest of Municipality. You have never consulted me on all these issues. Furthermore, the provisions under Sec. 301 (4)...you have not followed. Your actions have created complete indiscipline and insubordination among the whole staff of the Council. I have been observing that you are passing direct orders to the subordinate staff without bringing me in the picture which has created very many problems in the Municipality and for which you are solely responsible.

I have also requested you that notice of no-confidence is going to be discussed against you on July 29, 1971 and as such I requested you not to take such decision so arbitrarily without my knowledge and consultation. But you paid no heed to my request and advice.

Para No. (2) of your office note is not proper. I take serious exception to it. I am a representative of the State Government in the Municipal Council and it is my duty to watch over the interest of the Council and put a check on all irregularities brought to my notice. Your sanctioning of the lease to the Oil Mill without consulting me or the Council is improper and illegal. We cannot part with the Council's assets without having taken proper permission from the Council. You have also no power to issue orders or directions, *viz.*, 'Your non-compliance of the order of the President will amount to serious neglect, wilful disobedience of orders, which is punishable under law, I will have to bring to the notice of the State Government all your irregularities and illegal actions. You have suspended my stenographer illegally and for no fault of his without my consultation and without my knowledge. You have done so just to paralyse me. You have no powers to issue direct orders for suspension or transfer of any employee of the Council. It is the duty of the Commissioner to do so.

Your last para is most improper. The question whether, you are my 'Master' and I am your 'Servant' is itself illegal and improper. I am the servant of the State Government only.

Copies of the Commissioner's note were sent to the Collector, the Secretary, LSG Department and the Director, Local Bodies. The Commissioner's steno had refused to hand

over charge (on July 21, 1971), 'without consulting the Commissioner', as per the transfer orders. He was subsequently suspended by the President.

The President wrote a letter to the Commissioner on the same day in the following vein :

I have come to know that you are not coming to the office of the Council at 10 a.m. and if at all you come, you leave your office after sometime. Apart from this, you are not coming to the office after 3 p.m. Consequently, people who come to meet you are put to great deal of inconvenience. Please let me know due to what circumstances, you leave the office early in the morning if at all you come, and why you do not come to the office after 3 p.m ? (in Hindi).

On July 26, the President sent an office note to the Commissioner enquiring the reason for not submitting the file of the 'Five Hawkers' in spite of repeated requests. He also wanted to discuss various matters with the Commissioner and suggested that they might meet next day at 3.30 p.m. The Commissioner replied next day that the file of the 'Five Hawkers' had been sent to the State Government at their instance. He denied that it was repeatedly asked for by the President. He also stressed that his duties were not only confined to sitting in office, but also to visit the cities. The proposed meeting did not take place.

On the day following, the President wrote back to the Commissioner objecting to his sending the file to the State Government without his consent and knowledge, particularly since he had repeatedly asked for it.⁵ He desired that the Commissioner submits the communication from the State Government and their acknowledgement for receipt of the file.⁶

In connection with the arrangements for 15th August celebrations, the Commissioner had held a meeting of the municipal officials (on 20-7-71) and allocated duties to various members

⁵Under the Act, the President of the Council is the custodian of municipal records.

⁶In fact, the file was sent to the Secretary, LSG Department, by the Commissioner on his own accord on July 22, 1971 along with a letter containing the facts of the case, stating that the two political parties had made a political issue of the situation and requesting that necessary orders be issued to the President in this regard.

of the staff. Subsequently, he issued a circular specifying that hoisting in the Council building would be done by the President, while the Commissioner would be doing it at the Town Hall (another building of the Council). On receiving the circular, the President sent a note on July 28 to the Commissioner in which he pointed out :

As Commissioner, you have no right for fixing the time of the flag hoisting....It was for the President and Vice-President to have fixed the timings. Flag hoisting at the Municipal Office is done by the President and Vice-President at Town Hall. You should have consulted me before issuing the note.

The President also enquired as to where the office meeting was held and who were present there. He also mentioned about his earlier note dated July 26, 1971 in which he requested the Commissioner to meet him on July 27, 1971 at 3.30 p.m. to discuss certain matters and concluded by remarking:

You have been on one pretext or the other, avoiding to meet me. For the last 10 days you have been acting in this manner. In the meeting of the Council held on July 27, 1971, the Municipal Councillors strongly resented your absence from the office.

As Commissioner, you should have made yourself personally responsible for all arrangements instead of holding the various officials personally responsible.

The Commissioner responded on the same day in the following manner:

I regret to note the language which you have used to the Commissioner is most unbecoming and undignified on the part of the President, in this note as well as your previous note.

It is the duty of the office to chalk out the tentative programme and it was sent to you for perusal and discussion thereafter.

You could have asked me who were present in the meeting. It was a meeting of the officials, viz., Heads of Departments/Sections of the Council.

You have made a false allegation that I was never present in the office from 3 to 5 p.m. for last 10 days.

I regebet to note that you have encouraged complete

indiscipline and insubordination in the staff by transferring staff against my request and issued direct orders to the subordinates.

I cannot be made responsible for the various orders you have given to my subordinates without my consultation and knowledge.

Referring to the last Para you have no authority to write to me like this you are neither my 'Master' nor I am your 'Servant' as you have written in your previous office note to me. I am a servant of the State Government alone. Would you mind to correct yourself?

On July 29, the Commissioner wrote a letter to the Collector, copies of which were separately sent to the Secretary, LSG Department, Director, Local Bodies, and the City Magistrate. In this letter, the Commissioner quoted the President's office note of July 28, 1971 and pointed out:

...the President is not cooperating with me in the arrangement of 15th August and the (local festival). He has created complete indiscipline and insubordination amongst the staff and he has directed the lower staff not to bear any responsibility about the 15th August and (local festival).

His this office note is not only improper in the language but insulting for the office of the Municipal Commissioner. I request that necessary explanation may kindly be called from Shri (A. Ranjan). He also be asked to tender apology.

In the previous note which I have sent to you he has written to the extent that he is my 'Master' and I am his 'Servant'. This is highly improper on his part. I am the servant of the State Government alone. Due to his refusal, it will be difficult for me to cope with the work of the 15th August and the (local festival). I have very timely informed you about the state of affairs, and I request that action may kindly be taken immediately.

On July 29, a vote of no-confidence was passed by the Council against the President, and thereafter, the Vice President, Shri K. C. Kumar took over as Acting President. The Commissioner wrote to Shri Kumar congratulating him on his taking over as officiating President of the Council and assured him of his full cooperation.

On August 8, the Commissioner wrote to Shri Kumar

suggesting him that the office note/orders which pertained to the Garden and Lighting department should be sent to the Garden Supervisor directly. This would carry more weight as the President exercised all the powers over municipal staff. This would also speed up work, save office time and have salutary effect.

On August 10, the Commissioner wrote to Shri Kumar regarding the Asstt. Fire Officer:

I brought to your notice the state of indiscipline and insubordination of the A.F.O. You are also aware of his many misconducts. Recently, he has grossly misbehaved with your Commissioner in the presence of (a) Municipal Councillor. I had requested you to suspend him but you insisted to call his explanation. More than a week has passed. I request that action must be taken against him... You must have noticed that disobedience and disregard of the authority is becoming a general rule in the Council. However, no action followed against the concerned official. Meanwhile, Shri Kumar had asked the Commissioner to personally attend the office of the Assistant Labour Commissioner in connection with an industrial dispute in which the Council was a party. While assuring his cooperation, the Commissioner expressed his uneasiness with the suggestion in a note of August 17:

He (the Asstt. Labour Commissioner) is a Government servant very much junior to my card and status. It will be undignified for me to go and appear before him. You will bear with me that my dignity is your dignity and dignity of the Council as well as the dignity of the public at large. As such you will bear with me that instead of going, I send the Municipal Vakil (lawyer) along with an Accountant.

The Garden Supervisor in his capacity as the President of Nagar Parishad Karamchari Sangh (Municipal Council Employees' Union) gave a notice of strike from August 23, i.e., during the local festival, demanding revision of grades and payment of arrears. The Commissioner sent a telegram to the Secretary, LSG Department, on August 19, urging him to finalise the grades of Municipal staff. He also sent an office note to the Acting President on August 23, pointing out that the Garden Supervisor along with 8 employees and 3 councillors

had gone on hunger strike demanding assurance on their demands. He suggested negotiation with him since the local festival was round the corner. On the same day, the Commissioner sent a report to the Secretary, LSG Department, observing:

The Garden Supervisor with other eight colleagues today sat for hunger strike in Municipal Council premises on the very flimsy ground for the revision of grades which the Government has accepted to do it by September, 1971. As regards the arrears, they are not pressing very hard as the major amount has been cleared and the rest will be cleared by the end of September, 1971.

During my discussion with you, I had brought to your notice that in this Municipal Council there are only 3 persons who exploit the other staff. My personal observation is that this strike has little support from employees but the Municipal Councillors, who were supporters of Shri (K.C. Kumar), officiating President, have developed very severe differences with his policy and they are encouraging this sort of strike.

I asked the President to go to intervene in the matter. He expressed that he would intervene at the opportune time. Shri (Kumar) is likely to stay upto the first week of September 1971.

The Municipal Councillors have moved against Shri (Kumar) the motion of no-confidence before the Collector just a few days back.

This Council came into existence a year back but could not form stable sub-committees as yet for functioning. I am of the clear view that the Council in the present state of affairs cannot deliver goods to the public and the public is facing great hardship. The administration of the Council has also gone beyond control. Strike, disobedience and insubordination are being encouraged by the Municipal Councillors.

Next day, i.e., on August 24, the Commissioner sent clippings of two local dailies to the Secretary, LSG Department, which were critical of the councillors' activities and their effect on municipal administration with the request that the Council be superseded in the public interest.

On September 4, the Commissioner again wrote to the Secretary, LSG Department, requesting him to transfer the Revenue Officer, the Fire Officer and the Garden Supervisor, now that the local festival was over. He also pointed out that the RO was to retire in March, 1972 and that he might be compulsorily retired or asked to proceed on leave preparatory to retirement. In another letter addressed to the Director, Local Bodies, written on the same day, the Commissioner sought the transfer of the Asstt. Fire Officer as he was inculcating indiscipline and insubordination amongst the staff and was very active in encouraging strikes and agitations in the Council.

Meanwhile, the Acting President, Shri Kumar, wrote a letter to the State Chief Minister on September 23, seeking the transfer of the Commissioner and enclosed copies of his letter to the Minister of LSG Department, the Secretary, LSG Department and the Director, Local Bodies. He observed that :

As you know, the post of the Commissioner is an important one and there must be coordination and cooperation between the President and the Commissioner of the Council in the interest of efficient administration and smooth working of the Council. As a fact...the President of the Council must be consulted before deputing any officer as Commissioner... Shri (Nayak) has not been cooperating with any President in the affairs of the Council nor he has taken any interest in the work. He has been taking part in party politics with the result that municipal administration has been adversely affected.

On September 25, the Council elected Shri R. Krishik to the office of the President and Shri Kumar reverted back to his position of Vice-President. Soon afterwards, a local newspaper reported that the Commissioner had recommended to the State Government to inquire into the hopeless situation prevailing in the Council and to supersede it. Referring to the Commissioner's confidential note to the Secretary, LSG Department, the newspaper observed that as the councillors came to know of the contents of the letter, the feeling of dissatisfaction with the Commissioner had spread among them. The councillors belonging to the two political parties had met and discussed what action could be taken against him. It was decided to bring a proposal before the Council requesting the State Government to transfer

the Commissioner immediately. It was also reported that a municipal official, who is in league with the councillors, got the details of the Commissioner's letters from the office of the Director, Local Bodies. The paper mentioned about the Commissioner's recommendation to transfer out two municipal officials. In the end, the action taken by the Commissioner was commended as indicative of his exemplary courage and devotion to duty.

The President, on seeing the news items, sought the comments of the Commissioner on October 7, which he sent on the same day as follows :

Honestly clarifying the facts, a confidential note, which was asked by the Secretary, LSG Department was sent to him on 17/20 July, 1971. At that time, the President of the Council was Shri (Ranjan). You know very well the situation which prevailed at that time in the Council. That note has no bearing when Shri (Kumar) and you took over the charge of the post of President.

I assure you that I am with you, and with all sincerity, honesty and integrity and I will remain with you.

The Council, however, met on October 11 and unanimously passed the following resolution :

...the work of Shri (Nayak), present Commissioner, (Polynagar) Council is not satisfactory. He is unfit for the position of the Commissioner nor he takes any interest in his work. Due to his incompetency, the administration is deteriorating day by day. Therefore, it is proposed that the State Government should be approached for his immediate transfer out of this Council and an honest, able and experienced officer should be posted in his place in this Council.

The resolution unanimously authorised the President to initiate action in this regard. The President on the same day, sent a copy of the resolution to the Minister for LSG and requested him to transfer the Commissioner. On October 14, he sent a copy of the resolution to the Chief Minister urging him to immediately transfer the Commissioner. Copies of the resolution were also sent to the Secretary, LSG Department, and the Director, Local Bodies. This was followed by a telegraphic reminder on November 15, 1971.

On November 16, the Commissioner sent a D.O. letter to

the President thus :

...a few Councillors want my transfer from this place without confirmation of any allegations and charges against me.

I have no personal interest and gains in the Municipal Council. I have been sent here by the State Government and if State Government removes me, I forthwith shall relinquish charge.

On November 28, the Commissioner wrote a letter to the Special Secretary (Appointments) in the State Government saying :

On my part I am working with all integrity, honesty and devotion in this Council. Anything wrong or illegal, I cannot allow at any cost. I try to please the Councillors as best as I can but there are so many things which I cannot do being illegal and improper and as such many times it becomes difficult to please all the 45 councillors of the Municipal Council.

I have been given to understand that only a few out of 45 Councillors want my change from the Municipal Council.

Before any action is taken a thorough enquiry may be made into this matter.

The Commissioner also requested that he should be allowed to stay at Polynagar on compassionate grounds, which included his parents' treatment in the local hospital, his children's education in a local school and the likelihood of his wife's getting a job in a local college. In the end he observed :

To be honest in my submission I have no bank balance. I make both ends meet with my present meagre salary. If I am disturbed from (Polynagar), great pecuniary difficulties and mental agony will arise. I am quite senior and have already put in 12 years of service in the (State) Administrative Service.

Copies of the letter were also sent to the Chief Secretary, Secretary to the Chief Minister, Secretary, LSG Department, and the P.S. to the Minister of LSG.

The President, on the other hand, sent a reminder to the Secretary, LSG Department, on November 26 and pressed for the Commissioner's transfer by pointing out that if action was not taken in proper time, there would be great resentment amongst the members of the Council and if any untoward event

happened the responsibility would lie at the other end. Therefore, immediate action was suggested.

Shri C. Nayak, Commissioner of Polynagar Municipal Council, was ultimately transferred on November 29, 1971 and Shri Khal Raj, Revenue Officer of the Council, took over the charge from him.

ANNEXURE

FRAMEWORK OF CITY ADMINISTRATION

The Council

Municipal administration vests in the Council. The Council may delegate executive power or function to the President, Vice-President, Chairman of a Committee, Commissioner, Secretary or any other official of the Council. This resembles the English local government system and is different from the practice in other States where there exists a sharp distinction between executive powers and functions in the municipal sphere.

The President

The President of a Council is elected by its members from among themselves. He can be removed from office by a resolution expressing want of confidence in him passed by the majority of the members at a special meeting convened for the purpose. He acts as the 'speaker' of the Council and exercises general supervision and control over municipal staff connected with accounts and records. He also watches over the financial and executive administration of the Council. He is responsible for the custody of all municipal records. He furnishes copies of the Council's resolutions to the Collector and the Director of Local Bodies.

The Commissioner

Municipal Commissioners are appointed by the State Government. The Commissioner is empowered to watch over municipal administration and take effective steps to rectify any financial irregularity or loss to municipal property, supply any statement or document to the Council and explain any subject under discussion at a Council meeting. In the discharge of these duties, he is subject to the control of the President. All municipal staff is subordinate to the Commissioner. He is empowered to appoint class IV municipal staff.

Doctor's Dilemma

D. D. Malhotra

Alok Nagar with a population of 1.6 lakhs is a district headquarter town in the state of Haryana. It has a class I municipality to look after its civic affairs. The municipal committee was superseded by the State Government in 1971 and since then it has been under the charge of an Administrator appointed by the Government.

Mrs Singh, at the age of 35, took over as the Administrator (AR) of the municipality in March 1973. She belongs to the Haryana Civil Service. She has put in about 10 years of service in her cadre while working in various capacities. This was her first posting in a municipal organisation. Prior to this posting, she was in the same town as General Assistant to the Deputy Commissioner of the district. She hopes to be promoted to IAS in the near future as she feels that her service record is very good, her superiors, *i.e.*, the D.C. and others at the State Government level are very happy with her accomplishments.

She also did very well in the Haryana Administrative Service competitive examination. Her husband is a doctor belonging to State Health Service and has recently been transferred and made incharge of the district hospital of the same town.

After assuming office, she discovered that health and sanitation services of the municipality required a lot to be done. The municipality had been without a Medical Officer of Health (MOH) for a long time. The Municipal Secretary and the Engineer had been advising the Administrator on public health matters and the Chief Sanitary Inspector had been incharge of the department for about 9 years. She immediately took up the matter with the State Government and the State Public Service Commission. As no suitable and properly qualified candidate could be recruited by the Public Service Commission

NOTE : To maintain anonymity, the names of the persons and of the town have been changed.

from the open market, she persuaded the State Government to lend the services of any officer from the State Health Cadre. Finally, the State Government suggested the name of Dr. Prashad to the municipality and he was readily accepted.

Dr. Prashad, 52, has put up about 20 years of service in the State Health Service. He had been, during 1964-69, the health officer of the same district. He got M.B.B.S. degree in 1952 and qualified for D.P.H. in 1964. His father had been a freedom fighter and he, during his student days in 1944, had been to jail while being active in the freedom movement. Dr. Prashad joined the municipality in April 1974. His previous posting was in a rural area and he had been seeking transfer from there on account of lack of good schooling for his two children. His deputation to the municipality was a welcome relief to the Administrator (AR) who had been keenly looking forward to having an experienced and qualified MOH to look after sanitation problems of the town.

The MOH found an easy access to the AR. The staff viewed the relationship between the two as very cordial. Mrs. Singh's husband who had recently taken over the charge of the District Hospital and who knew Dr. Prashad as his colleague in the same cadre, found the Municipal Health Department in regard to the problem of sanitation around the hospital, extremely cooperative. Just outside the boundary walls of the hospital, hospital waste used to be thrown by its scavenging staff. This had always been resented by the Municipal Health Department, and its staff had been reluctant to remove the scattered waste. The hospital staff felt it beyond their jurisdiction to clean the area. Finally, Dr. Prashad got the hospital surroundings cleaned by his staff and erected a dump-house for easy deposit of garbage by hospital staff and its removal by the municipality. Occasionally, when the AR's husband visited her office, the MOH would be invited or on hearing about it, he would join them. Informally, during such meetings the AR's husband secured the services of municipal sanitation staff to attend to some of the internal sanitation problems of the Hospital arising out of the agitation of hospital employees, Dr. Prashad remarked, "one has to do irregular things to keep the Administrator's husband in good mood".

ORGANISATIONAL SETTING

According to Section 254 of the Haryana Municipalities Act 1973, when a municipal committee is superseded, the following consequences ensue :

- (a) All members of committee vacate their seats;
- (b) all powers and duties of the committee are exercised and performed by such persons as the State Government may appoint. (In this case, such person is the Administrator);
- (c) all municipal property get vested in the State Government.

Since the Administrator enjoys all the power given to the Committee under the Act, during supersession, other officers can enjoy only those powers which the Administrator may delegate to them. All heads of departments such as the Medical Officer of Health, the Municipal Engineer, the Secretary, the Water Works Supdt., the Tax Supdt., the Accountant are directly under the supervision and control of the Administrator. Even though separate personnel system exists, all appointments and dismissals beyond a specified level require prior approval of the State Government. However, those State Government Officials whose services have been lent to the municipality, are not subject to the powers enjoyed by the committee in respect of employees belonging to the separate personnel system. In Alok Nagar, the Administrator and the Medical Officer of Health were both officials of the State Government.

THE EPISODE

The southern part of the town is a low-lying area through which a sewer passes to a dead-end disposal. The municipality has installed five pumps to drain out the sewage into a raised carrier (drain) for eventual let out into a canal about three km. away. The number of pumps to be operated depends upon the level of sewage with the ultimate aim of preventing any spread of sewage to the low lying inhabited areas. When it rains, the rain water normally floods the sewer requiring sometimes commissioning of all five pumps simultaneously. Between the site of pumps and the drain, control-room with residential

quarters has been provided for two foremen who have been assigned the task of maintaining and operating the pumps. Four unskilled employees have been attached to the foremen. A telephone has also been installed in the control room to facilitate communication in case of emergency. The municipal office works during summer from 7.30 a.m. to 2.30 p.m.

On July 31, 1974, it rained heavily in the afternoon and the low-lying area adjacent to the sewer got flooded. At about 6 p.m. the driver of a garbage disposal truck informed the MOH that he had seen the overflowing of sewer. The MOH rang up the control room but could not contact any one. After sometime, he phoned the Octroi Post located some distance away from the control room and contacted the driver who lived next to the post and asked him to go to the control room and check whether anyone was there. The driver rang back from the Octroi Post to inform the MOH that the bell was ringing but there was nobody around. The MOH then tried to get in touch with the Water Works Superintendent (WWS) who was the immediate supervisor of the foremen, but he did not succeed to get him on the telephone. Apprehending the spread of sewage to large parts of the town if rain continued for another few hours and its consequent health hazards, he felt desperate and extremely annoyed with the foremen. But he felt he could do nothing as it was already 8.30 p.m. and without a vehicle he could not move out in the heavy rain. He later explained that:

'It is the responsibility of the WWS who reports to the AR directly to see that all the pumps operate under such emergency and are maintained in working order 24 hours a day. He has been provided with field staff who rotates in shifts to look after the operation of pumps. The foremen have direct responsibility and one of them has to be found on duty at that hour.'

Since I enjoyed the confidence of the AR, I thought I need not report this matter to her at this late hour, if I could manage to get the pump started. Moreover, I am also a senior officer, I saw no reason why staff would not respond to me. What would the administrator think of me as a senior and responsible officer if I had resorted to reporting to her the negligence in some one's else department at that

late hour.

Next day, early morning the MOH informed the AR over the phone at her residence the problem which had spread by then to large parts of the town and what he had done on the previous evening. He expressed his annoyance over the negligence of the staff on site as well as of the WWS. The AR asked him to meet her in her office at 9.00 a.m. and in the mean time she would ask the WWS to join the meeting.

In the meeting held in the AR's office the WWS maintained that the telephone in the control room was out of order and therefore it was wrong to say that the telephone was not attended. Something had gone wrong with the pumps and his men were attending to the repairs at the site located some distance away from the control room. The driver should have reported to the foremen who were working at the disposal site. The MOH was infuriated by what he felt was a distortion of facts and blatant lies. He informed him that the driver had heard the bell ringing in the control room and also checked the whereabouts of the foremen and their staff from the control post and none of them was around. The MOH further asked the WWS about his whereabouts on the previous evening particularly if he knew what was wrong with the pumps. The WWS explained that he was informed of the failure of pumps very late in the night as he was away on a 'Niji Kam' (personal work). The MOH lost his temper and asked him "what is that Niji Kam"? Feeling a little upset with the manner in which proceedings of the meeting were going on, the AR realised that the MOH was "acting very rudely and exceeding his limits in her presence." She asked the MOH to "keep quite and let the WWS talk to her." Moreover she told the MOH that his man was at fault because he did not report the message to the foremen. She also pointed out that the MOH should have reported to her on the previous evening. Ths MOH was shocked by these remarks of the AR and felt "insulted in presence of the WWS and the other junior staff" who could overhear the deliberations taking place in the Assembly Hall, converted into office and a portion of which was partitioned temporarily to provide a cabin for the AR's office. Then onward, he did not utter a single word in the meeting. The AR decided to hold an inquiry of the entire episode and closed

the meeting. The MOH left the office without any comment.

THE AFTERMATH

The AR expected that the MOH would come to see her later in the day to discuss some urgent sanitation problems and also sent an oral message asking him to see her. The MOH conveyed to her that he was not feeling well and he did not visit her office that day.

He later expressed his resentment over the decision and felt that she should have called the explanation of the WWS.

"If senior officers are put to inquiry on every report, it would be difficult to work. I am an independent head of department and we both are equal."

The AR sent a man next day to call the MOH for enquiry but he did not go to her office and expressed his inability as he was not feeling well. He stopped visiting her office thereafter. She considered the MOH's behaviour as hostile particularly when she asked him to see her and he did not do so and moreover there was hardly a day in past when the MOH would not visit her office and spend sometime with her.

On August 2, 1974 (the next day), she paid a surprise visit at 5.30 a.m. to check the working of the sanitation staff in a locality. On August 5, 1974 she issued an office memorandum to the Chief Sanitary Inspector (CSI)/all the sanitary inspectors (SIs) pointing out,

"During the course of surprise check at 5.30 a.m. on August 2, 1974 near (locality X), I have noticed that there was no sanitary staff on duty, nor the sanitary jamadars/ sanitary inspectors nor their helpers, though they were required to be on duty by 5-30 a.m. sharp.

This is very serious, resulting in unsanitary condition of the town. This too shows that none of the staff is paying any attention towards their duty. In the circumstances, I call upon you to explain your position in this respect. This laxity on your part is also very much irregular. You are therefore directed to be more careful in the performance of your duties, failing which strict action against the defaulters will be taken."

On the same day another office memo was issued by the AR to CSI and all SIs directing them "to furnish reports and the

work done *area-wise* regarding the challans under various sections of the Municipal Act with effect from April 1974 to July 1974 by August 8, 1974 positively. The reports should be detailed showing total number of prosecutions launched and convictions thereof and number of cases still pending."

The MOH never visited AR's office after the meeting of August 1, 1974. He felt that the above memoranda were attempts to isolate him from his staff with whom he had very good relations. He wrote on the copy of the first memo in the file he maintained for his personal papers that he took.

"...a serious view of it that my administrator had gone around and did not find the persons on duty and then did not ask me to take explanation of my staff as to why they were not on duty. Instead she opted for this style of note which lowers her in the eyes of my staff. Secondly, did she find out why they were not present? Roll call takes place at 5.30 a.m. and then they disperse to their duty places. She did not go around the area but only to the spot. Did she know where they meet?"

On August 13, 1974, the AR issued another office memo to the CSI and all SIs on the subject of prosecution in which she observed :

"The statement regarding prosecution, etc., submitted by you from April 1, 1974 to July 31, 1974 shows that you have only launched 333 cases jointly in all, and out of it, 50 cases are alleged to have been compounded. This apparently reveals that no efforts are made to ensure early service of summons, etc., and taking further action in this matter. The reasons afforded by you in this respect do not carry any weight. Inspite of repeated directions no attention is being paid to this job, with the result that it is a loss of municipal income, and prosecutions not launched in time carries a bad impression on the defaulters."

She further directed them in the memo that maximum number of cases for prosecution should be launched and pursued and a weekly report in this regard should be submitted to her every Monday. She informed them that a meeting would be held on August 31, 1974 at 10.30 a.m. and they should bring along with them the progress report w.e.f. August 1, 1974 to August 13, 1974. The AR reviewed the progress report in the

meeting held on August 19, 1974 with CSI/SIs and emphasized that "the staff of Sanitation Department should exert more and challan people under various provisions of the Act. Work done in this regard should also be reported every month." This decision was communicated to the MOH through a short note which gave the above extract of the minutes of the meeting.

The AR had started dealing with the Health Department papers sent to her wherever she could without inviting any discussion with the MOH. She had also assumed direct supervision of the MOH's subordinate staff, giving them orders for execution and asking them to report to her.

On August 21, 1974, the MOH sent an office memo addressed to SIs, with a copy to the AR and to the Deputy Commissioner of the district for his information. The memo pointed out that :

"The Sanitary Inspectors of this Municipality do not make any mental difference between them and inspectors of executive departments such as police sub-inspectors, food inspectors, excise and taxation inspectors etc. The Health Sanitary Inspector is a social worker and his method of work is through health extension education.

To work with the people and through the people and raising their health consciousness, knowledge and their participation in their own public affairs are the extension methods and tactics which are employed by them. This is achieved by meeting, guiding, persuading and establishing intimate relations with people of the area. The sanitary inspectors should know the area and the people and be one of them and their groups.

It is wrong notion that sanitary inspectors can achieve the aims of health and sanitary standards through executive means, i.e., by prosecuting the defaulters. The defaulters in our work are outcome of age-old social habits which cannot be changed by prosecution. The more you will prosecute the people, the more they will go away from you. The communication, mutual understanding and education will break down and you will become a foreigner to them. No permanent improvement is feasible by prosecution methods without health education".

The MOH further emphasised in his above memo that he

"will consider those sanitary inspectors as efficient in whose area (high) sanitation and health standards (are) achieved with least number of prosecutions. The increase in number of prosecutions is the sign of inefficiency on the part of sanitary inspectors who are social health workers." Moreover he observed:

"It is strange psychology to raise municipal funds by prosecution methods. This is negative way of working and will do more harm than good to health work. The only positive source of income with health department is licensing, otherwise health work is the drain over municipal funds for the benefit of people of municipal area"

After issuing the above memo, the MOH circulated on the same day, the decision of AR taken during the meeting on August 19, 1974 with his endorsement that all SIs should note the instructions given by him in the memo. He sent another memo on the same day to the AR with a copy to the D.C. in which he noted that:

"It is my duty to submit certain observations made by me in the functioning of Health Department of this Municipality. The sanitary inspectors are being asked and given certain orders most often by your goodself by calling them in your office. Some of those orders have also gone to them directly in writing without even endorsement to (me).

(I) feel it a pleasure to have your so keen interest in the functioning of this department. This could have been done also in a way which gives my subordinates an impression that whatever orders are given by you, are passing through (me). I have observed that the subordinates being less educated and less broad minded feel themselves divided in their responsibility towards their officers. Firstly, the single line of responsibility towards administration through Health Officer incharge of Health Department is broken down by the above observed manner. Secondly, the orders coming directly to them from you may be technically and professionally at variance with the orders of the Health Officer. They feel thus confused and should feel confused. Thus, the sense of responsibility has gone divided. This has resulted into the lowering of standards of health and sanitation situation of the town as well as functioning of the Department.

I observe that all the sanitary inspectors at present feel that they are responsible to none, i.e., neither to your goodself nor to (me). In order to check further deterioration in the functioning of the department you may ask the sanitary inspector to carry out your orders through me or by bringing them to (my) notice and it will be good of yourself if you kindly send the copy of your direct orders given to sanitary inspectors to me also for compliance. I appeal that direct orders may be none or least in number, i.e., rarely."

On August 23, 1974, the MOH addressed another memo to all the sanitary inspectors in which he cautioned them by observing:

"You are sending directly your files with your notings to the Administrator for necessary orders. This perhaps is being done by you in routine and not on asking by the Administrator herself.

You are not competent to send any notings on any file for necessary orders to Administrator directly without getting processed and signed by (me). Your action will mislead the Administrator (and) will amount to back door working for ulterior motives.

If the Administrator asks you to bring any file or papers from this office, please do take that papers or files to her, show her, or leave that papers to her if she desires, but after getting the file or paper back from her, please immediately discuss the matter with (me) and put up note as per her instructions, through (me) immediately for necessary compliance. But under no circumstances you should deal with that paper or file directly without getting processed and signed by (me)".

A copy of the above memo was sent to the D.C. for his information and another copy was given to the AR with the endorsement that "she should please allow me to work as per rules in municipal interest".

By the middle of September 1974, the MOH had already approached his State Department through the D.C. for his transfer. At no stage, any attempt by AR's husband appears to have been made to patch up the differences between MOH and AR.

In the interviews with the case writer, the AR and the MOH

expressed the following views of each other.

The Administrators View

The MOH has hardly any interest in his work. He was superseded in the Health Department and got a posting in a rural area where he had difficulty in finding a good school for his two children. He knows the local MLA who ultimately helped him on getting the present posting. When he first joined, he used to come to me for help on various matters such as getting a telephone at his residence, augmenting sanitary staff in his department, etc. I was always extending my help and cooperation. He soon started behaving differently. He would be reluctant to meet me when I would be calling him in my office for consultation. As he started withdrawing to his office, I had no other alternative than to communicate with him in writing. He would be mixing freely with his subordinate staff and even shared jokes with them. He was not behaving in an officer like manner and this had adversely affected the discipline in his department.

The Views of the MOH

"If I were the AR, I would have done whatever she did through proper channel. She is not confidant that she is the boss. If she had issued the instructions to me or to my staff through me, I would have anyway implemented them. She thought, after the incident, that I am upsetting her set-up. She never told me her difficulties nor she tried to know my difficulties.

"The municipality has all the talent in the administration it needs. If she could properly tap them, a number of problems would not exist. The Secretary is totally ignored. She does not get wholehearted cooperation of the staff and often she uses the words 'Mai kuch nahin sunana chahiti' (I do not want to listen anything). If you have the subordinates with you, half the problems disappear in the field. She used her position to isolate me from my staff.

"Moreover, possibilities of misunderstanding while working together are always there. But such possibilities decrease because of social contacts which extend beyond office hours. One could pay courtesy calls on colleagues and senior officers at

their residence or meet them at some parties or informal and more personalised gatherings. Such occasions offer scope to remove any misunderstanding and bitterness arising out of it, restore mutual confidence and cordiality. Unfortunately, opportunities of this nature were missing. The whole situation would not have taken such an ugly turn if the Administrator had been a man. She is a devoted housewife as well, and restricts herself to her household after office hours. She discourages any one calling on her at her residence."

Partial Mechanization in a Municipal Department

Raj Nandy

Although the City of Triveni was the State Capital, yet its landscape bore the appearance, for a long time, of an oversized village. It was then divided into ten local bodies, each an entity by itself, with its own special competence. The jurisdictions were limited, so were the staffs and the work proceeded in a smooth, placed manner. The House Tax Department of one of these ten bodies was, for example, manned by a Superintendent, a Head Clerk, and a few clerks and they together handled about 20,000 assessments a year.

As years went by, however, the landscape began to change. The population of the City rose, particularly after the partition of the country. The fields and farms around it gave place to more and more residential localities, office blocks, commercial and industrial establishments. Finding the structure of the ten local bodies rather ill-equipped to cope up with the diverse needs of a swelling metropolis which Triveni then was—the State Government, by an Act in 1950, merged all the ten bodies to create a single authority, namely, the Triveni Municipal Corporation. To be presided over by a Mayor, the Corporation was to consist of 80 odd popularly elected councillors, with its executive powers vested in a Commissioner.

The resulting scene was that of a giant authority in place of ten lilliputian bodies. The functions like transportation, public health, tax collection, etc., that were earlier restricted in number and minor in nature soon became numerous and complex. The relatively few and simple administrative units of the former days changed into a huge, complicated machinery.

Within a couple of years of the birth of the Corporation the organisational culture that the prevailing environment produced was of the varied, complex social relationships—within the organization as well as between it and the 'systems' operating at its boundaries. For instance, a pattern of gratitudes and loyalty amongst the politicians and the officials developed and this soon began to take shape into a practice

based upon personal or group advantages. Quite a few of the councillors, elected every four years, belonged to the business community. Election campaigns cost money and so required to be backed up by funds. Close personal contacts with the members of the municipal staff, therefore, worked to mutual benefit. While the councillor stood to gain from the inside tips and profitable contracts, the official looked forward to rewards in the form of transfer or promotion to a better position. Indeed, some of the positions in the administrative hierarchy as well as certain areas of the Corporation were mockingly dubbed as 'wet' and 'dry' depending on whether they yielded any additional income or not. The Corporation also ran an O & M Branch which carried out, from time to time, analytical studies of the different units or activities of the Corporation. But, such was the pressure of heat from the above, at times, that the executive bosses would try to 'dictate' in advance the very outcome of the studies. A large number of lower-rank employees obtained their jobs by means of political patronage. Those who were doing good, honest work were in a very small minority.

BEFORE MECHANIZATION

The erstwhile House Tax Departments were amalgamated to form the 'Assessment and Collection Department'. To enable the new Department to meet its responsibilities (over 2,00,000 assessments a year) as well as to make entirely new valuations on all the properties, it was, both reorganised and strengthened, staff-wise. Headed by an Assessor Collector, it was split up in two wings, *i.e.*, the 'outdoor' and the 'indoor' staff; while the former detected and assessed the properties in the Corporation area, the latter received taxes and maintained accounts. The entire workforce was located at the Town Hall.

The first Assessor & Collector, Mr. Ram Pratap Shukla, has had a successful career as a property tax expert in another Corporation before he came to join the Department on deputation. Highly respected by his colleagues for his specialised knowledge in the subject (even authored a book), he was ever eager to streamline the work in his Department.

The key man on the Assessment (outdoor) side was the Section Inspector whose main duty was to survey, discover,

and assess all the properties—old and new—in his respective area. He would list all necessary data on each individual property in his field book and in a proforma. The proforma provided space for the computation of the value of the property.

Since the Inspector was the only man on the spot and he alone observed and listed the details of the properties, sufficient room existed for the corrupt one to defraud the Corporation. Indeed, it was well known in the Department that the Section Inspector's job was the starting point of corruption in the Assessment wing.

The key official in the Collection (indoor) process, on the other hand, was the Bill Clerk. Generally, a high school product, he would on appointment, acquire the necessary knowledge and skill on the job. Of course, the Corporation had its own centralised accounting system. A Manual explained the manner in which entries were to be made in the books and gave details on how accounts maintained by different responsibility-centres would be coordinated and so on. The procedure demanded that as soon as a taxpaper deposited the tax amount with the Cashier stationed close by, the Bill Clerk would record the transaction promptly and accurately in the Demand & Collection Register, a sort of general ledger which was a repository of information on each taxpayer with regard to his status vis-a-vis the Department's dues. The Bill Clerk was allotted about 3,000 demands and was expected to maintain complete accounts of all these demands. A great deal of his work, notably the preparation of bills and notices, the posting of payments and protracted correspondence with the taxpayers was both routine and repetitive.

In the year 1955, the Municipal Corporation replaced the single 'House Tax' with the four-edged 'Property Taxes', consisting of four separate taxes, namely, the General Tax, the Water Tax, the Scavenging Tax, and the Fire Tax. This posed a problem for the Collection staff of the Department, particularly the Bill Clerks. The 25-column ledger to which the Bill Clerks had become accustomed for years was now a veritable jumble of a columns and subcolumns (See Appendix I). But, what you notice there is only a sample of the 25-column ledger; to get a picture of the post-1955 ledger multiply the number of columns there by 4).

Totalling of figures, both horizontal and vertical, had to be done in order to carry forward the page-totals on to the consecutive pages, aside from integrating these totals in a summary form to serve the purpose of financial and management control.

The effect of the change showed on the Demand & Collection Register; these had now become too bulky and unwieldy. Not all transactions were recorded by the Bill Clerks. Most of them resented the change and often grumbled about it. No wonder, their efficiency slumped.

As the amount of work continued to increase in sympathy with the increase of population and properties in the City, more staffs were added to the Department. But, the problems that confronted Mr. Shukla were those of: slow movement of the assessment of collection machinery, and a fall in the Department's revenues. An administrator endowed with common sense that he was, he devised short-cuts in the procedures to get the work done expeditiously. He even tried to encourage both the Section Inspectors and the Bill Clerks by means of cash incentives but the Accounts Department forced him to give up his reforms by invoking one rule or the other which, in their view, were more important than the objects Mr. Shukla was pursuing.

Following a policy decision in early 1958, the Corporation decided to decentralize the work of its various Departments. For the Assessment & Collection Department, this decision meant the division of the Corporation area into eight 'satellite' Zones. The actual assessment and collection work was entrusted to the Zonal Offices, whereas the Head Office dealt mainly with the resolutions of the Corporation, policy issues and appeals from the taxpayers. Each Zone was put under the charge of an Assistant Assessor & Collector who was supported by a Zonal Inspector, Assistant Zonal Inspectors, and Section Inspectors (Assessment Wing) and by a Head Clerk, Bill Clerks, UDC's and LDC's (collection wing). The eight Assistant Assessors & Collectors were grouped under three Deputy Assessors & Collectors at the Head Office who were responsible to the Assessor & Collector. Next in the hierarchy was the Deputy Commissioner (Taxes) but for all practical purposes the powers vested in the Commissioner in respect of the property Taxes were exercised by the Assessor & Collector.

After the valuations made by the Section Inspector in a Zone were checked up by his superiors there, an Assessment List was prepared. Then, through a public notice property-holders would be invited to come and see the tentative assessments placed on their properties. Their objections were solicited in cases where they felt the Department had made an error. Thereafter, the Lists prepared in all the Zones were authenticated at the Head Office after publication of notice to the property-holders who, in the event of any objections, could file their appeals with the District Court.

The Collection Wing would issue the Bills and Notices to the taxpayers; received taxes as well as maintained the records, including the Demand & Collection Registers. The daily collections had to be remitted to the Head Office alongwith a 'challan' (name given to sheets bearing the details of the day's payments) for crediting to the Corporation funds.

The Property Taxes were payable to the Corporation in full or in instalments (to be determined by the Zonal Incharge). The taxes become due in the beginning of each year, on presentation of the Bill. Failing compliance within the time allowed, notices would go out. Thereafter, the Recovery Cell got in motion to chase the defaulters according to the prescribed procedure.

One of the purposes of decentralisation was to quicken the pace of tax collections, but, that was hardly accomplished. On the contrary, the problems further aggravated when the Bill Clerks in the Zones could not complete and close their Registers within a reasonable time at the end of the financial year.

Taking advantage of the increasingly neglected totals in the Registers, some Bill Clerk, in one of the eight Zones, hit upon a technique to make some 'extra' money from the taxpayers. The technique employed by him was that he would post an entry (say of Rs. 2,000 paid by an Assessee 'A' in full or part payment) against the name of Assessee 'B' in the Demand & Collection Register. While the Assessee 'A' was content with his cash receipt, the Assessee 'B' walked off triumphantly for, by bringing the Bill Clerk, he had succeeded in stalling the issue of a Notice to him. Since the payments received by the Cashier and those shown in the Register matched at the end of the day, there was hardly any chance of the rigging being

detected. Poor checking by the Checkers (one for every 4-5 Bill Clerks) and sloppy supervision in the Zones turned the technique nearly fool-proof. Transfers from one Zone to another being the rule rather than the exception, even if the Assessee 'A' ever discovered the manipulation and returned to the Zone to produce his cash receipt, the Bill Clerk would possibly be in another Zone. If he were still there, he would quietly tell the Assessee that a mistake in posting had occurred and that it could be corrected—a kind of reply that had about it a ring of naivete.

Success brought forth imitation and soon some other Bill Clerks were also practising the technique. In a few transfers from the Zone where the technique originated, the members of the small ring were scattered in different Zones, new recruits indoctrinated with the art, and in a short time, most of the Zones were infested with Bill Clerks out for the 'extra' money.

Another widespread fraud practised on the Corporation was the way a taxpayer evaded payment of his water tax arrears by passing on a percentage of the total amount to the Bill Clerk. The arrears entry would never be carried over to the new books after March.

Inaccurate and incomplete book-keeping by the Bill Clerks gradually caused a great deal of disruption in the work of the Department. No totals at any place in the Registers, and hence, no final information of any kind on four separate Taxes, whether taxpayer-wise, or page/register zone-wise. Part of the problem, Mr. Shukla knew, was due to the volume of posting and the manual writing up of the accounts. As the tax and work arrears piled up, he started looking a field for an alternative—both easy and speedy—to the existing manual method of maintaining accounts. The issue had become a matter of urgency.

ALTERNATIVE

A promising possibility suggested itself when Mr. Shukla went to England in late 1960 to study the centralised property-rating system in that country. There he visited several local bodies and discovered that most of the accounting work in those bodies was being done by machines. The machine section there served all the wings of the local body and operated

in accordance with a time-table drawn up on a one-year-cycle basis. The time-table was sufficiently flexible to allow machines to be more equally loaded with work than by a static arrangement. Enquiries made by him revealed that the suppliers of those machines had their branch office in Calcutta and a Zonal Office in the City of Triveni. On return from England, he had a session with the manager of the firm, discussed his problems and asked if the firm could supply machines that would answer his Department's needs. As the Department had been experiencing delays in the preparation and despatch of bills and notices to the taxpayers, the firm was requested to propose such a system of mechanisation as would not only cater for : (1) the maintenance of accounts, but also (2) the preparation of bills and notices.

The proposals submitted by the firm outlined, *inter alia*, the requirements of the Department and the details of the equipment suggested. In a general write-up, the firm also pointed out the following specific advantages of mechanisation : Speed, Accuracy; Neatness, More Information and better Management Control; Economy; Impersonality; and, Regularity. The total cost of the entire equipment, quoted by the firm, was about Rs. 3,00,000. But, if it were to be hired, the monthly rental would be about Rs. 8,000.

While recommending the adoption of mechanisation, the Commissioner of the Corporation, in his detailed note to the Corporation-Council, cautioned against the temptation to go all out in the beginning and thereby bite off more than the Corporation could possibly digest, financially or otherwise. He recommended that : (1) the equipment be acquired on rental terms than by outright purchase, and (2) the experiment to be tried only in one Zone and extended to other Zones after knowing its results.

The proposals made by the Commissioner were approved by the Corporation in November, 1963. The contract signed with firm stated, among other things, that the rentals operative at the time of the signing of the contract were subject to future increases or decreases by the firm.

The equipment called "Automatic Data Processing Machine", an early variety of business machines which made their debut in the forties, was installed in December 1964. It

was housed in an air-conditioned hall, adjacent to the Office of the Assessor & Collector. The equipment consisted of : 2 Punches, 2 Verifiers, one Reproducer, one Sorter, one Collator, and one Tabulator.

A demonstration of the equipment, which was attended by the Mayor of the Corporation, a few Councillors and senior officers of the Department, was arranged. The impact was a mixture of curiosity and scepticism. Typical was the comment made by a senior official : "It was nice to see the machines to do the job, but I wonder if these would not upset the on-going way of life in the Department".

The trial was to run only in one Zone for a period of one year. Later, at the time of the implementation, however, the Department agreed to a suggestion from the firm that as no extra costs were involved and the machines had larger capacity, the experiment might as well as be conducted in two Zones, instead of one.

The Department picked up for training by the firm one of its own officials who had detailed knowledge about the accounting and billing problems arising from the existing manual system. On completion of his training, he was put in charge of the Automatic Data Processing (ADP) project. Some machine operators were recruited from outside,

The Triveni Municipal Corporation was all set—the first municipal corporation in the country—to go the 'modern' way.

AFTER MECHANIZATION

The changeover period from the manual method was spread over a period of about 6 months. The work of the Department was split up as follows :

- (1) Preparation of bills and notices, and maintenance of accounts were centralised and handed over to the ADP Section;
- (2) The Zones handled Preparation of Assessment Lists, Consideration of Objection, Drawing up of Authenticated Lists, Disposal of Appeals against the Authenticated Lists, Collection of Payments and Preparation of Daily Collection 'challans' Remissions, etc., and Routine Correspondence with the Taxpayers.

The hiving-off of the two major tasks, namely, the preparation of bills and notices and the maintenance of accounts, from the two Zones to the ADP Section resulted in a direct saving of almost half of the clerical staff in the Zones. While a couple of them were posted to the ADP Section for miscellaneous clerical help others were absorbed elsewhere in the Department to meet the unremitting pressure of work at certain points.

Before the two Zones selected for the pilot run, embarked upon mechanisation in June, 1965, the existing live records were re-framed on punched cards, the junior clerical staff trained, and procedures of data-flow from the Zones to the ADP Section worked out.

Under the new scheme, the ADP Section would punch one card for each assessee and this card contained, among other things, the assessment number (a symbol given to the assessee), rateable values, type of property, taxes payable, etc. Once the information arrived from the Zonal offices, the ADP Section would have that transcribed into the cards by means of the two punches, thereby preparing accurate, permanent and unalterable records. It would then use the two Verifiers to test the accuracy of the transfer of information into punched cards. Cards were next sorted out in terms of arrears, current demands, remissions, etc., with the help of the Sorter. Later, the Collator would merge or separate the different types of cards, according to the property-numbers. Finally, the Tabulator sensed, extracted from the sorted cards their punched information, processed it and presented the results in figures in the required form.

Every year, there would be changes in the rateable values of some 10,000 properties because of modifications in the properties, say, new additions. As the ADP equipment did not have the capability to calculate tax amounts, the Department had to hire time on a computer elsewhere on payment of Rs. 6,000 a year.

Since the day the ADP equipment went into operation, Mr. Shukla gave the project all his attention and tried to infuse everyone concerned with a sense of enthusiasm. Two elements turned up their noses at this new development, however one was from within the organisation and the other from without.

The 'insider' was the Union boss who was frequently found

in the corridors propagating against the introduction of mechanisation in the Department.

The 'outsider' was the company that had supplied the Department, a few years ago, the address-plate machine for addressing bills and notices, ledger pages, and reminders to the taxpayers. A representative of the company once called on the Commissioner to allege that Mr. Shukla had evinced special interest in the ADP firm in order to facilitate the sale of their equipment to the Corporation. The charge was probed, but not proved.

The political party that swept the polls in the recent elections was not happy over mechanisation either. It stood for gradual replacement of English by Hindi in the Corporation's official work. The leader of the party once sounded Mr. Shukla as to how did he like the idea of being packed off to his parent organisation. Mr. Shukla somehow survived that intimidation.

The new system worked so well during its first year that an unprecedented amount of tax collections were realized. A contributory factor was the speed (only 1/4 of the time taken under the manual system) at which the bills were prepared by the ADP Section.

The old Demand & Collection Registers were now a thing of the past. The ADP Section used large sheets of paper to maintain the accounts. When run through the programmed Tabulator, the sheets would be turned into printed statements, in columnar form, of all the information required. These statements would then be placed in a cover and stapled. Totalling was merely a child's play.

The experiment seemed to be well-established. Since the ADP equipment was under-utilized and no additional expenditure involved, another Zone went 'data processing' the following year. Before that was done, however, Mr. Shukla made a mention of his intention in the Standing Committee of the Corporation.

In the meantime, a new Deputy Commissioner (Taxes)—Mr. Dogra had taken over. Though not so thoroughly conversant as Mr. Shukla was, yet he was familiar with the various facets of the property tax administration. At times there were differences of opinion between the two on day-to-day administrative problems. They did not always see eye to eye with each other

in matters relating to postings and transfers of personnel in the Department, either—functions which were exclusively the province of Mr. Shukla. Occasional stresses and strains were, thus, inescapable,

The excellent tax collections of the last year were topped by still better results in 1966-67. Indeed, so heavy was the rush of payments that special counters had to be improvised and additional staff appointed in the Zones. As the performance continued to be encouraging, so with effect from 1967-68, yet another Zone (the fourth one) embraced the ADP in order to take fuller potential of the equipment. By then, the firm had announced increase in rental of its equipment. Since the increase fell within the terms of the agreement, the Department took it in its stride.

Alongwith positive advantages, the new system also brought some strains. The language spoken and understood by the machines, for example, was 'numerals, and therefore used numerical codes for headings like 'Arrears' 'Current Demand' on the bills. These were not easily intelligible to a lot of taxpayers, in spite of an 'Index to the Code' printed on the bills themselves. Besides, erratic electric supply, at times, caused the machine to go wrong. Angry taxpayers would thus come to the Zonal offices and the Department every now and then either to murmur in complaint about the new form of bills or to protest and seek corrections.

The Bill Clerks found themselves subjected to a new discipline, and part of it was the chore of filling out at least a dozen of *new* forms (of course, the nature of job was not new, for the Clerks filled out forms under the manual system as well) meant to communicate a variety of data to the ADP Section every day or periodically. This was not, however, taken seriously by the Bill Clerks. The inevitable result was that information on remissions, part-payments or dishonoured cheques, etc., would not reach the ADP Section in time and this resulted in erroneous billing or reminders to taxpayers.

Mr. Shukla was fully seized of these shortcomings and was doing his best to remedy them, but the complaints were soon taken up by the Deputy Commissioner (Taxes) at his own level. There was a whole series of meetings, spaced at different intervals where Mr. Dogra produced specific complaints from

members of the public to show how mechanisation was turning out to be a problem-child for the Corporation and bringing bad name to it. Mr. Shukla tried, on the other hand, to mollify such complaints by pointing out that these were not really beyond control. The last of these meetings took place towards the end of 1977 when Mr. Shukla stressed that the limited experiment with mechanisation had left no doubt in his mind that full mechanisation was the only way to mop up the tax arrears, streamline current demands, and tidy up the accounts.

Mr. Shukla retired from the services of the Corporation in March, 1969, and was succeeded by one Mr. Dube. Most of the senior officials in the Department were indeed amazed at how fast the latter could climb up to move into Mr. Shukla's position. After all, only a few years back he was a minor official in a municipality in a neighbouring State and had later landed in the Corporation to work as a junior officer under Mr. Shukla. Nearly three years had gone by since the experiment was launched. In the meantime, the Accounts Branch held up the payment of yearly rental to the ADP firm on the ground that the extension of mechanisation to four Zones by the Department was irregular and in contravention of the Corporation's resolution of November, 1963. The Corporation, they said, had desired it to be tried out only in one Zone and if at all the experiment had to be extended to more than one Zone, the matter should have been referred to the Corporation Council. The dues of the firm were, however, paid later.

Soon after Mr. Dogra ordered an O & M study of the experiment. The O & M report concluded that mechanisation had failed to achieve any of its basic objectives. It examined two other possibilities, viz., Computerization of the accounting and billing work of all the Departments of the Corporation, or installation of an improved version of the existing ADP equipment. But, then it went on to reject the two by arguing that both involved huge initial outlay and that was unthinkable for the already resource-starved Corporation.

The only alternative before the Corporation, the report added, was to about-turn to the old manual method.

And, it did just that with effect from December, 1968.

APPENDIX I

HOUSE TAX 1954-55

(Sample of a page from the Demand & Collection Register)



Collection of Property Tax

D. D. Malhotra

Raj Nagar in the state of Haryana is a Class I Municipality spread over an area of 9 sq. miles with a population of 7,26,630 as per 1971 Census. It is divided into 20 wards. The last election to the Municipality was held in early 1968 and 20 elected members and one nominated member took office on March 10, 1968. It was subsequently superseded and an Administrator was appointed by the State Government on September 12, 1969. One of the grounds mentioned in the order of supersession was the incompetence of the municipality in tax collection.

In the year 1972-73, the house tax current demand constituted 16 per cent of the total income (Rs. 39,84,786.00) of the municipality. Net house tax demand *vide* Table 1 after excluding exemptions and including arrears comprised 28 per cent of the total income of the municipality.

The house-tax had been levied at the rate of 6.25 per cent of the annual value from April, 1956 onward. The assessment was revised in 1969-70 and this led to an increase in the current demand from Rs. 1,28,561.00 for 1968-69 to Rs. 2,98,026.00 for 1969-70 an increase of 134 per cent. The tax rate was revised in the year 1972-73 from 6.25 per cent to 12.50 per cent and consequently, the current demand further rose to Rs. 6,51,558.00—an increase of 65 per cent over 1971-72. It was also provided that a rebate of 20 per cent would be given if tax was paid within 30 days of the receipt of the bill.

It will be observed from Table 1 that net current demand during 5 years period (1968-73) increased from 122 to 558 units (one unit being equal to Rs. 1000)—an increase of 436 unit, *i.e.*, 357.37 per cent. We also observe that the arrears were about 3 times the Net Current Demand in 1968-69 and even though they were almost at par with the Net Current Demand in 1972-73, the amount had in fact increased from 363 units to 666 units—an increase of 83.47 per cent. This is evidently on account of the fact that (every year) the collection has fallen short of even the Net Current demand except during 1970-71 when it was in excess by two units (*i.e.* Rs. 2000).

TABLE 1 DISTRIBUTION OF CURRENT DEMAND, EXEMPTION, NET DEMAND,
ARREARS AND COLLECTION (1968-74)

Year	Current demand (CD) (a)	Exemption (b)	Net current demand (NCD) $c=a-b$	Arrears (a)	Net demand $e=c+d$	Collection (f)	Balance $g=(e-f)$	Percentage of collection against net demand (ii)
1968-69	129	7	122	363	485	72	413	14.84
1969-70	298	11	285	415	700	207	493	29.57
1970-71	298	14	284	493	777	286	491	36.80
1971-72	395	31	364	491	855	288	567	33.68
1972-73	652	94	558	567	1125	459	666	40.80
1973-74	690	N.A.	N.A.	666	1356	N.A.	N.A.	—

* Rounded off to the nearest thousands.

The exemptions are granted afresh every year and they continue to be given during the year. It is only at the end of the year that the net amount of exemption given during the year can be known. There are 9 categories of exemptions from the payment of house-tax in the city. Some of the important categories were : (a) where the annual value of the property was Rs. 120 and less; (b) where the property belonged to a widow, and its annual value did not exceed Rs. 900; (c) properties owned by members of scheduled caste community having annual value not exceeding Rs. 600; (d) the property owned by old and permanently disabled persons and having annual value not exceeding Rs. 900; (e) property owned by ex-servicemen or by families of deceased soldiers having one unit for residential purposes; and (f) other cases of poverty.

For the purposes of the house-tax, the city had been divided into 11 blocks, and a demand register was maintained separately for each block. At the beginning of a financial year fresh demand registers were opened indicating the property number, the name and address of the assessee, current demand and arrears if any. The total amount of arrears were given even though such arrears might be related to different financial years.

The Municipality under the Haryana Municipal Act 1973 is required to serve the bill for the amount of tax on the person liable to pay the tax. If the bill is not paid within 10 days from the delivery thereof, the Municipality is required to serve the demand notice and if the persons does not pay within 7 days from the service of the notice, or show sufficient cause for non-payment, the sum due with the fee leviable for the notice, is deemed to be an arrear of tax. The tax arrears are recoverable on application made by the municipality to the Collector, as if they were arrears of land revenue (Sec. 94). Also, the municipality can recover the tax on application to Magistrate having jurisdiction by the distress and sale of movable property belonging to the defaulter (Sec. 95).

The normal strength of the tax department was one superintendent (who also attended to other taxes) and three bill clerks. At the time of the preparation of fresh-demand registers and the bills, additional staff was diverted from other departments. The payment of a bill was required to be made to the cashier in the municipal office. The cashier sent one copy of the receipt

of payment to the tax department for necessary entry in the demand register. The cashier's office was located on the ground floor and away from the tax department which was located at the 2nd floor. It was in a small room whose entrance was used as a counter by placing a table before it. During the peak period, i.e., November to February, the tax payers were generally found struggling to get their turn for payment.

II

On a study of the demand register it was observed that the data regarding the extent of collection against current demand and arrears were not readily available separately. Further, out of a total number of 10,078 assessees in 1972-73, 2399 (23.80 per cent) were exempted as they fell under one or other of the categories granted exemption from payment of house tax. Table 2 below gives the distribution of assessees according to the amount of house tax payable by them to the municipality.

TABLE 2 DISTRIBUTION OF ASSESSEES ACCORDING
TO THE TAX PAYABLE (1972-73)

<i>Amount of Tax</i>	<i>Assessee paying tax</i>	<i>Assessee exempted</i>	<i>Total assessees</i>
Rs. 12-50	3,803 (49.53)	2,094 (87.28)	5,897 (58.50)
Rs. 51-150	3,218 (41.90)	292 (12.19)	3,510 (34.83)
Rs. 151-250	391 (5.99)	10 (0.41)	401 (3.98)
Rs. 251-500	167 (2.18)	3 (0.12)	170 (1.69)
Rs. 501-1001	73 (0.95)	—	73 (0.73)
Rs. 1000 and above	27 (0.35)	—	27 (0.27)
	7,679 (100.00)	2,399 (100.00)	10,078 (100.00)

NOTE : Figures within brackets indicate percentage.

An analysis of the extent of contribution to the Net Current Demand during 1972-73, vide Table 3 below revealed that (a) 91.43 per cent of assessees contributed 38.89 per cent of the Net Current Demand. (b) 0.35 per cent of assessees contributed 35.66 per cent of the current demand.

TABLE 3 CONTRIBUTION OF VARIOUS GROUPS TO NET CURRENT DEMAND (1972-73)

<i>Group</i>	<i>No. of assessees</i>	<i>Percentage of contribution to NCD</i>
Group I (Rs. 12—Rs. 150)	7,021 (91.43)	38.89
Group II (Rs. 151—Rs. 1000)	631 (8.22)	25.45
Group III (Rs. 1001 and above)	27 (0.35)	35.66

Further scrutiny of 27 assessees in Group III revealed that two of the assessees contributed to the extent of 29 per cent of the Net Current Demand. Being prompt in payment, they also contributed 35.26 per cent of the collection for that year (1972-73).

The number of defaulters (3,624) against whom the tax arrears had been pending in 1973-74 was about 47 per cent of the total number of assessees (7,679) excluding those exempted, as per Table 4.

It would be observed that 86.4 per cent of the defaulters had arrears up to Rs. 200 while those in arrears upto Rs. 300 constituted 94 per cent of the total number of defaulters. Which tax group did these defaulters belong to? Exact data on this aspect were not readily available. However, one could deduce some inferences due to certain conditions attached to the payment of tax against current demand by the assessees. Even if an assessee wanted to pay the current demand, he could not do so if he had some arrears outstanding. Therefore, assessees having arrears of Rs. 200 or less could not belong to a tax-category whose current demand tax liability is Rs. 201 and above. Read with Table 2, it would be observed

TABLE 4 NUMBER OF DEFULTERS AND THE AMOUNT OF ARREARS DUE FROM THEM (1973-74)

<i>Amount of arrears due</i>	<i>No. of defaulters</i>	<i>Percentage of the total</i>
Rs. 1- 100	2,264	62.47
Rs. 101- 200	866	23.90
Rs. 201- 300	260	7.30
Rs. 301- 400	91	2.51
Rs. 401- 500	53	1.46
Rs. 501- 600	18	0.50
Rs. 601- 700	17	0.47
Rs. 701- 800	7	0.19
Rs. 801- 900	9	0.25
Rs. 901-1000	6	0.16
Rs. 1001 and above	33	0.91
 Total	3624	100.00

that a substantial majority (84 per cent upward) of defaulters fell in the tax range of Rs. 12 to Rs. 150. However, their share of arrears in 1973-74 could not be more than 53.5 per cent. Thus, it could be noticed that less than 16 per cent of defaulters were responsible for 63 per cent of tax arrears.

III

The preparation of fresh demand registers on the opening of the financial year normally took 4 to 5 months. The preparation of tax bills which began only after the completion of demand registers took another 3 to 4 months. Sometime, bills were also selectively served while bill preparation activity went on. Normally, the servicing of the bills reached at its peak during the months of October and November. Issuing of demand notices generally picked up the momentum during the months of January and February and it did not follow any system. By

and large, it was the discretion of the tax clerk to pick up the defaulters for serving of demand notices. The tax superintendent and the Administrator signed the bills and the demand notices presented to them by the bill clerks.

Since about 47 per cent of the assessees were defaulters, majority of them were unable to take the benefit of rebate. The bill indicated the amount of arrear without giving the year to which such arrears pertained to. Any clarification on this point by the assessee was vigorously discouraged since such data were not even available in the demand register of current year. If the arrears related to a number of years, checking of the demand register of these years were to be made and the cumulative total of arrears had to be worked out if the assessee wanted to know the break-up of the arrears year-wise. This was a laborious and time-consuming process.

Occasionally there were complaints from the assessee that their bills indicated 'arrears' though according to them they had cleared the municipal dues. In support of their contention, some of them even would produce the receipt of payment issued by the municipal office. There were also a number of complaints that assessee had been served with demand notice despite the fact that the payment of the tax had already been made. It had been also complained that the date of servicing of the bill was not given and therefore in such cases the cashier had no means of knowing when the bill was served in order to determine whether rebate should be given or not. He had almost complete discretion in such cases.

Never any action had been taken against any staff member on account of such errors in the preparation of bills or in wrongful entry of arrears in such bills or in the demand registers. Any assessee who contended that he had already paid the dues, must produce the receipt or seek the cooperation of the staff in checking their records or alternatively again make payment or run in arrears in respect of the dues claimed.

The Committee's experience in the realisation of arrears through the Collector had been very discouraging. The cases before the Tehsildar dragged on for years and the municipality had to bear the cost of litigation. Since there is no legal provision for imposition of any penalty or charging any interest on the amount claimed, the defaulters also did not feel any

urgency in the payment of the tax. The seeking of Magistrate's help for distress and sale of movable property had also rarely been resorted to.

In July 1973 the Administrator was concerned with the poor collection of house tax and he took the following measures :

IV

- (a) The bill clerks were asked to go from door to door for the collection of the tax.
- (b) Each bill clerk was assigned a daily tax collection target of Rs. 1000.
- (c) The tax superintendent was required to submit a weekly statement of tax collected by the bill clerks.
- (d) A general instruction was given to identify the persons who were in arrear of house tax as well as water charges. The water connections of such defaulters were to be disconnected on obtaining orders from the Administrator; and unless they cleared their house tax arrears, no payment in respect of water charges should be accepted for restoration of water supply.

The extent of collection increased substantially during next two months. In a few cases, the disconnecting of water supply was resorted to and through this step tax arrears were realized. But the amount of tax received by the cashier significantly declined.

After a lapse of two months, it became widely known that the bill clerks were mostly around the cashier's office and would catch hold of the assessees who would come to pay their tax at the counter. This was done in order to fulfil the daily assigned individual quota of collection. Since the municipality did not have any legal right to demand payment of arrear of house tax before water charges were accepted and it was required to restore water supply when the arrears of water charges were cleared, the defaulters sent their water charges through post and requested the municipality to restore their water connection. The municipality had to accede to the request of such defaulters. The Administrator was aware of the limited scope of such an action and was of the view that as more people learnt of the legal position, recourse to such a measure would have to be

abandoned. In the meantime, the Administrator was transferred as S.D.O. of the Tehsil while remaining in-charge of the Municipality on part time basis as Administrator. The Administrator wondered what he could do with system of collection in order to maximise the yield, now that he would be able to devote less time to municipal administration.

